# Fuck the Police AC – TOC

The saddest thing ever is that I never got to read this aff. This may be the coolest thing I’ve ever written. Side note – the frontlines are kind of light in most substantive sections because a) honestly there aren’t that many great substantive responses to the aff and b) I could operate out of the other aff file.

## 1AC Modules

### 1ac – substance

#### Inherency – colleges use police officers to restrict protected speech.

Fire 17 Foundation for Individual Rights in Education, FIRE's Spotlight database is a collection of policies at over 400 of our nation's biggest and most prestigious universities, collected in an effort to document institutions that ignore students' rights, or don't tell them the truth about how they've taken them away. “Bias Response Team: Report 2017” 2017. https://www.thefire.org/fire-guides/report-on-bias-reporting-systems-2017/ SA-IB

Over the past several years, the Foundation for Individual Rights in Education (FIRE) has received an increasing number of reports that colleges and universities are inviting students to anonymously report offensive, yet constitutionally protected, speech to administrators and law enforcement through so-called “Bias Response Teams.” These teams monitor and investigate student and faculty speech, directing the attention of law enforcement and student conduct administrators towards the expression of students and faculty members. To better understand this phenomenon, FIRE gathered data throughout 2016 on every bias reporting system we could locate. FIRE sought to determine who reviews the reports, what categories of bias they are charged with addressing, and whether the institution acknowledges that the system generates a tension with free speech and academic freedom. FIRE discovered and surveyed 231 Bias Response Teams at public and private institutions during 2016. The expression of at least 2.84 million American students is subject to review by Bias Response Teams. While most students in higher education do not yet appear to be subject to bias reporting systems, we believe that the number of Bias Response Teams is growing rapidly. The composition of Bias Response Teams is not always made public. About 28% did not reveal the names or rules of any team members. Of those whose membership FIRE could ascertain: 42% report speech to members of law enforcement or campus security officers, even though the teams deliberately solicit reports of a wide variety of non-criminal speech and activity. 12% of teams include at least one administrator dedicated to media relations, suggesting that part of the purpose of such teams is to deter and respond to controversies that might embarrass the institution. Fewer than a third of teams included faculty members, whose absence diminishes the likelihood that the team will have a meaningful understanding of academic freedom. Teams tend to cast a wide net when defining “bias.” Almost all use categories widely found in discrimination statutes (race, sex, sexual orientation, etc.), while others investigate bias against obscure categories, such as “smoker status,” “shape,” and “intellectual perspective.” A significant minority include political affiliation or speech as a potential bias, inviting reports of and investigations into political speech by law enforcement and student conduct administrators. In responding to reports regarding this wide array of protected expression, administrators are frequently armed with vague or overly broad rules granting them leeway to impose sanctions for speech they dislike. In December 2016, FIRE found that some 92.4% of the 449 schools surveyed for our annual speech code report maintain policies that either clearly and substantially restrict speech, or can otherwise be interpreted to punish protected speech. At such schools, a Bias Response Team’s practice of broadly defining and identifying “bias” may expose a wide range of protected speech to punishment. Even where schools purport only to provide “education” to the offending speaker, instead of formal punitive sanctions (such as suspension or expulsion), this response is often undertaken by student conduct administrators, not educators, and more closely resembles a reprimand.

#### Police officers are able to target deviant speech – this creates a danger for students of color on campus – empirics.

Airaksinen 17 Toni, USA Today College correspondent. “To fight bias, colleges are employing literal speech police” February 23, 2017. http://college.usatoday.com/2017/02/23/bias-response-teams-college-speech-police/ SA-IB

When students see something that makes them uncomfortable, hurt or offended, on many campuses they can report that language to the administration — in particular, to something called a bias response team. There are at least 232 bias response teams on American campuses with jurisdiction over the speech of least 2.84 million students — at schools like the University of Utah, George Mason University and SUNY Buffalo — according to a new report from the Foundation for Individual Rights in Education (FIRE). Bias response teams are collectives of administrators, faculty and other college officials. They encourage students to report speech that may be offensive, hurtful or marginalizing to minority groups — ultimately in an effort to help create a more inclusive campus. Once a student’s speech is reported, university officials investigate. If the panel concludes it was biased speech, he or she could be sanctioned by the administration. “It’s difficult to know” how students are punished, the author of the report, Adam Steinbaugh, told USA TODAY College, because few colleges release information about their investigations into reported bias incidents. And those that do release information tend to only publish vague reports. “Often, a college will simply say that they provided an ‘educational’ response or performed an ‘investigation,’” Steinbaugh said in an email interview. The “Bias Response Team Report 2017” is the first major report on these organizations. Steinbaugh said he was motivated to investigate these organizations because he was troubled by the use of campus police and security officials to investigate students’ speech — 42% of college bias response teams include members of campus law enforcement, the FIRE report discovered. “Many campuses, especially public universities, have police forces legally indistinguishable from your local police department. They have the power to investigate, detain and arrest,” Steinbaugh said. Most bias incidents that are reported are constitutionally protected speech, according to the report. But since bias incidents can potentially involve criminal conduct, the use of law enforcement officers is understandable, Steinbaugh noted. However, “that means that police may be scrutinizing reports of protected speech, and it certainly sends the message that police will be monitoring reports of offensive speech,” Steinbaugh said. “That’s troubling.” The full extent of the role of law enforcement in these teams, and what they investigate, is unclear. “Transparency is not often high on the agenda of universities and colleges,” Steinbaugh said. Some schools, such as John Carroll University and Appalachian State University, have published logs of bias investigations, giving the public a rare look at what gets investigated on college campuses. Other schools, such as Colby College, once had logs of bias incident reports available to the public, but no longer do. The Colby administration did not respond to requests for comment. To uncover concrete examples of reported speech, FIRE had to rely mostly on public record requests and the work of journalists such as Jillian Kay Melchior of Heat Street and Robby Soave of Reason. Soave seems to have been first to report on the University of Oregon’s Bias Response Team, finding that not only were students reporting other students, but that they were also making complaints about posters, parties, newspapers and signs. Melchoir was apparently the first to report on a professor at the University of Northern Colorado, Mike Jensen, who was reported to a bias team after encouraging his students to discuss controversial issues, including transgender rights. The professor was not invited back to teach the following semester, though it’s not clear the bias report was why. “Core political speech, academic discourse and outspoken activists are likely to become the subjects of bias incident reports,” notes the FIRE report. For example, at Appalachian State University, a student saw “TRUMP IS A RACIST” chalked across campus. The student reported it, describing the chalking as “slander” and claiming it was “unlawful.” At Colby College, a student was reported for saying “on the other hand,” which was perceived as ableist by another student. When the African American Student Alliance at John Carroll University held a protest, one anonymous student complained that the protest was making white students feel uncomfortable. These are just three of the many incidences of speech reported to bias teams each year. The number of complaints varies dramatically from school to school. While some annual reports show only a “handful of reports in a given year,” others can show “hundreds in a matter of months,” Steinbaugh said. Students USA TODAY College talked to about bias response teams had mixed opinions of them. Cameron Rockelein, a self-identified transgender man majoring in sociology at Fordham College in N.Y., expressed support for his college’s bias team, arguing they “absolutely help minorities or marginalized populations on campus.” “If done correctly, they can support a student who has experienced something terrible. They may even be able to teach the perpetrators that hateful actions are not condoned by the university, or even the error of their ways,” Rockelein said. “I have faith that if teams are well-intentioned and open-minded that they will make the right choices and support any student who has been made to feel unwelcome.” Asked about whether he saw these systems as a threat to freedom of speech on campus — one common critique — he said, “I can see why this would worry some, but as a queer person, I am more worried about the safety of marginalized people like me.” Zoe Musgrave, a multiracial student majoring in nursing at Otterbein College in Ohio, said that although her campus doesn’t have an official bias response team, she would fully support the creation of one. “It’s very empowering if students have a place to go to if they feel discriminated,” adding that she believed they could “they help minorities speak up racism or discrimination or injustice,” she said. Most students “do not speak out” when confronted with discrimination, she added. On the other hand, Autumn Price, a senior studying history at Liberty University, in Virginia told USA TODAY College that she was “very happy” her school doesn’t have a bias response team, which she learned exist through news coverage. She believes they could cause conflict and division. “Instead of being able to express themselves freely, students may find themselves withholding their viewpoints and ideas for fear of being reported to university officials,” she said, fearing her peers “could simply report any speech that ~~he/she~~ [they] didn’t like for any reason.” And Alex Solomon, a sophomore at Rider University in N.J., thinks there’s a disconnect between the idea and reality.

#### Restrictions on speech target people of color and empower speech – empirics.

Strossen 90 Nadine, John Marshall Harlan II Professor of Law at New York Law School, President of the American Civil Liberties Union from February 1991 to October 2008. She was the first woman and the youngest person to ever lead the ACLU. Professor Strossen’s writings have been published in many scholarly and general interest publications (more than 300 published works). Her book, Defending Pornography: Free Speech, Sex, and the Fight for Women’s Rights, was named by the New York Times as a “Notable Book” of 1995. “Regulating Racist Speech on Campus: A Modest Proposal?” 1990 SA-IB

First, there is no persuasive psychological evidence that punishment for name-calling changes deeply held attitudes. To the contrary, psychological studies show that censored speech becomes more appealing and persuasive to many listeners merely by virtue of the censorship. n358 Nor is there any empirical evidence, from the countries that do outlaw racist speech, that censorship is an effective means to counter racism. For example, Great Britain began to prohibit racist defamation in [\*555] 1965. n359 A quarter century later, this law has had no discernible adverse impact on the National Front and other neo-Nazi groups active in Britain. n360 As discussed above, n361 it is impossible to draw narrow regulations that precisely specify the particular words and contexts that should lead to sanctions. Fact-bound determinations are required. For this reason, authorities have great discretion in determining precisely which speakers and which words to punish. Consequently, even vicious racist epithets have gone unpunished under the British law. n362 Moreover, even if actual or threatened enforcement of the law has deterred some overt racist insults, that enforcement has had no effect on more subtle, but nevertheless clear, signals of racism. n363 Some observers believe that racism is even more pervasive in Britain than in the United States. n364 C. Banning Racist Speech Could Aggravate Racism For several reasons banning the symptom of racist speech may compound the underlying problem of racism. Professor Lawrence sets up a false dichotomy when he urges us to balance equality goals against free speech goals. Just as he observes that free speech concerns should be weighed on the pro-regulation, as well as the anti-regulation, side of the balance, n365 he should recognize that equality concerns weigh on the anti-regulation, as well as the pro-regulation, side. n366 [\*556] The first reason that laws censoring racist speech may undermine the goal of combating racism flows from the discretion such laws inevitably vest in prosecutors, judges, and the other individuals who implement them. One ironic, even tragic, result of this discretion is that members of minority groups themselves -- the very people whom the law is intended to protect -- are likely targets of punishment. For example, among the first individuals prosecuted under the British Race Relations Act of 1965 n367 were black power leaders. n368 Their overtly racist messages undoubtedly expressed legitimate anger at real discrimination, yet the statute drew no such fine lines, nor could any similar statute possibly do so. Rather than curbing speech offensive to minorities, this British law instead has been regularly used to curb the speech of blacks, trade unionists, and anti-nuclear activists. n369 In perhaps the ultimate irony, this statute, which was intended to restrain the neo-Nazi National Front, instead has barred expression by the Anti-Nazi League. n370 The British experience is not unique. History teaches us that anti-hate speech laws regularly have been used to oppress racial and other minorities. For example, none of the anti-Semites who were responsible for arousing France against Captain Alfred Dreyfus were ever prosecuted for group libel. But Emile Zola was prosecuted for libeling the French clergy and military in his "J'Accuse," and he had to flee to England to escape punishment. n371 Additionally, closer to home, the very doctrines that Professor Lawrence invokes to justify regulating campus hate speech -- for example, the fighting words doctrine, upon which he [\*557] chiefly relies -- are particularly threatening to the speech of racial and political minorities. n372 The general lesson that rules banning hate speech will be used to punish minority group members has proven true in the specific context of campus hate speech regulations. In 1974, in a move aimed at the National Front, the British National Union of Students (NUS) adopted a resolution that representatives of "openly racist and fascist organizations" were to be prevented from speaking on college campuses "by whatever means necessary (including disruption of the meeting)." n373 A substantial motivation for the rule had been to stem an increase in campus anti-Semitism. Ironically, however, following the United Nations' cue, n374 some British students deemed Zionism a form of racism beyond the bounds of permitted discussion. Accordingly, in 1975 British students invoked the NUS resolution to disrupt speeches by Israelis and Zionists, including the Israeli ambassador to England. The intended target of the NUS resolution, the National Front, applauded this result. However, the NUS itself became disenchanted by this and other unintended consequences of its resolution and repealed it in 1977. n375 The British experience under its campus anti-hate speech rule parallels the experience in the United States under the one such rule that has led to a judicial decision. During the approximately one year that the University of Michigan rule was in effect, there were more than twenty cases of whites charging blacks with racist speech. n376 More importantly, the only two instances in which the rule was invoked to sanction racist speech (as opposed to sexist and other forms of hate speech) involved the punishment of speech by or on behalf of black students. n377 Additionally, the only student who was subjected to a full-fledged disciplinary hearing [\*558] under the Michigan rule was a black student accused of homophobic and sexist expression. n378 In seeking clemency from the sanctions imposed following this hearing, the student asserted he had been singled out because of his race and his political views. n379 Others who were punished for hate speech under the Michigan rule included several Jewish students accused of engaging in anti-Semitic expression n380 and an Asian-American student accused of making an anti-black comment. n381 Likewise, the student who recently brought a lawsuit challenging the University of Connecticut's hate speech policy, under which she had been penalized for an allegedly homophobic remark, was Asian-American. n382 She claimed that, among the other students who had engaged in similar expression, she had been singled out for punishment because of her ethnic background. n383 Professor Lawrence himself recognizes that rules regulating racist speech might backfire and be invoked disproportionately against blacks and other traditionally oppressed groups. Indeed, he charges that other university rules already are used to silence anti-racist, but not racist, speakers. n384 Professor Lawrence proposes to avoid this danger by excluding from the rule's protection "persons who were vilified on the basis of their membership in dominant majority groups." n385 Even putting aside the fatal first amendment flaws in such a radical departure from [\*559] content- and viewpoint-neutrality principles, n386 the proposed exception would create far more problems of equality and enforceability than it would solve. n387

#### Campus cops use minor rules to target students of color.

Quinlan 16 Casey, reporter for ThinkProgress, previously an editor for U.S. News and World Report. “5 Things That Make It Hard to Be a Black Student at a Mostly White College” January 25, 2016. SA-IB

Being targeted by campus police **The number of armed officers at universities has gone up in the past decade**, a U.S. Department of Justice report shows. During the 2011-2012 school year, 91 percent of public colleges had armed police officers. There has also been a recent uptick in the percentage of private and public colleges that employ officers who carry guns, from 68 percent in the 2004-2005 school year to 75 percent in 2011-2012. **There is already distrust between safety officers and black college students, who are often profiled** by police officers off campus, and **there has been a record of** safety **officers unnecessarily criminalizing small infractions or stepping outside of their authority** when they approach black college students. For example, Portland State University students and Black Lives Matter activists protested the introduction of weapons to the campus police force due to concerns about who would be targeted by campus police.Black college students are often stopped by officers for very minor issues. In September, **a black college student who** attended Hinds Community College **in Mississippi was stopped by a campus police officer who said his pants violated the college dress code**. When the student refused to show his ID, **he was arrested for a failure to comply**. Yet, after the incident, **the college said he had not violated the dress code**.

#### Campus cops exact violence onto students expressing free speech.

Anderson 15 Melinda, writer at the Atlantic. “The Rise of Law Enforcement on College Campuses.” September 28, 2015. http://www.theatlantic.com/education/archive/2015/09/college-campus-policing/407659/ SA-IB

Some 50 years later, campus-police units are as ubiquitous on most college and university campuses as residence halls, libraries, and tenured faculty. Over 4,000 police departments total operate at public and private postsecondary schools, Taylor told BuzzFeed earlier this year, arguing that campus officers are different from municipal police in that they “do a better job of interacting with the public.” Indeed, the University of Pennsylvania criminologist Emily Owens has found that, collectively, college police departments are more focused on student safety than on local law enforcement, typically adopting a “harm reduction model of crime control.” Campus-police units are as ubiquitous on most college campuses as residence halls, libraries, and tenured faculty. A number of recent incidents, however, suggest that policing in higher education hasn’t evolved much from the violent tactics that were used to suppress Vietnam War and civil-rights activists. In 2011, a University of California Davis police officer was caught on film pepper-spraying a row of passive, seated students participating in an Occupy Wall Street protest—an event that The Atlantic’s Jim Fallows wrote “[rivaled] in symbolic power, if not in actual violence, images from the Kent State shootings more than 40 years ago.” And in another case that gained national notoriety, a University of Cincinnati police officer this past summer was indicted for murder for shooting an unarmed man in a traffic stop off campus. (The 43-year-old victim was not a University of Cincinnati student.) These incidents—and others—are increasingly raising questions about the role of campus officers and to whom they should report as they’re tasked with the undeniably fundamental responsibility of keeping students safe.

#### Restrictions empower speech and force people of color to rely on white institutions that couldn’t care less.

Strossen 2k Nadine, John Marshall Harlan II Professor of Law at New York Law School, President of the American Civil Liberties Union from February 1991 to October 2008. She was the first woman and the youngest person to ever lead the ACLU. Professor Strossen’s writings have been published in many scholarly and general interest publications (more than 300 published works). Her book, Defending Pornography: Free Speech, Sex, and the Fight for Women’s Rights, was named by the New York Times as a “Notable Book” of 1995. “Incitement to Hatred: Should There Be a Limit” New York Law School. 2000. SA-IB

Worse yet, ironically, censoring hate speech may well empower verbal abusers, by making them into free speech martyrs. This point was captured by the Progressive magazine: [T]he attempt to ban or punish hateful speech does nothing at all to empower the presumed victims of bigotry. Instead, it compels them to seek the protection of authorities whose own commitment to justice is often, to put it mildly, less than vigorous. Restraining speech increases the dependency of minorities and other victims of hate and oppression. Instead of empowering them, it enfeebles them.4

#### Thus the plan –

#### Public colleges and universities in the United States ought not restrict any constitutionally protected speech through law enforcement.

Airaksinen 17 Toni, USA Today College correspondent. “To fight bias, colleges are employing literal speech police” February 23, 2017. http://college.usatoday.com/2017/02/23/bias-response-teams-college-speech-police/ SA-IB

Bias response teams come from a good idea — an idea that students should be comfortable on their college campuses,” he said, noting that he felt they could “reduce the usage of words” that are offensive to students, which he said was “one example of the way one of these teams can be helpful.” “But in practice (they) have done more harm than good, censoring other students and opposing ideas,” he said. It’s unclear what the average college student thinks about these systems. No national survey has gauged student sentiment yet. And these teams have First Amendment implications. Punishing students for constitutionally protected speech has the potential to lead to a lawsuit, the report notes. “Each time a bias response team embarks upon an investigation or intervention with the reported person, it risks exposing the institution and its administrators to claims under the First Amendment,” Steinbaugh wrote. Frank LoMonte, executive director of the Student Press Law Center, told USA TODAY College there is no indication from the Supreme Court that colleges can take away students’ right to free speech. “The Supreme Court has been extremely protective of freedom of speech on college campuses,” LoMonte said. “There’s never been any indication from the Supreme Court that a college student has any less right to speak freely than any other citizen.” Though administrators don’t always realize that, he pointed out. He concurred with the FIRE report: “By definition, a college cannot impose punishment on constitutionally protected speech.” If colleges punish students for constitutionally protected speech, they could risk a lawsuit, he said, which is why bias response teams should be “well trained and have good legal advice.” This would ensure the bias response team can “coexist happily with the First Amendment,” while being able to respond to more serious complaints about potentially harassing environments. “Nobody wants colleges to be hostile places for women and minorities,” he said. If colleges punish students for constitutionally protected speech, they could risk a lawsuit, he said, which is why bias response teams should be “well trained and have good legal advice.” This would ensure the bias response team can “coexist happily with the First Amendment,” while being able to respond to more serious complaints about potentially harassing environments. “Nobody wants colleges to be hostile places for women and minorities,” he said. The FIRE report recommends that administrators strike a balance between caring for the well-being of students and not infringing on their freedom of speech. “It is understandable that universities wish to monitor the climate for students on their campuses and to have support systems in place for students who, for one reason or another, may be struggling to feel at home on campus,” Steinbaugh wrote. “But it does not follow from these precepts that universities must effectively establish a surveillance state on campus where students and faculty must guard their every utterance for fear of being reported to and investigated by the administration.”

#### It’s a question of authority – exceptions are modeled.

White 16 Ken, criminal defense lawyer at Brown, White & Newhouse. “Why Flag Burning Matters, And How it Relates To Crush Videos.” November 2016.

**In free speech analysis,** how you get to a conclusion **often has much more long-lasting impact than the conclusion itself. Our legal system runs on precedent. The significance of the precedent isn't "the Supreme Court said that flag burning is protected by the First Amendment**." The significance of the precedent is "someone wants to punish this speech and we have to figure out whether or not it's protected by the First Amendment. Let's look at the logic and methods the Supreme Court used to resolve that question when flag burning was the issue, and then apply it here." But the Supreme Court has decided lots of cases about the First Amendment. This is just one precedent, one example of a method of reaching a conclusion. What makes it particularly important? **The Supreme Court's flag burning cases are crucial — not because of how they analyze existing exceptions to the First Amendment, but because they address whether the government can create endless exceptions to the First Amendment. Just like crush videos.** You know, videos of women stomping on small helpless animals. That's . . . that's a thing? Of course it's a thing. Ugh. What does that have to do with flag burning? Or the First Amendment? Congress — having salved all of the nation's ills — passed a law banning crush videos. Because who wouldn't vote for someone who stands against hurting baby animals? The law made it a federal crime to create or sell depictions of animal cruelty in interstate commerce. In 2010, in United States v. Stevens,, the Supreme Court found that the statute violated the First Amendment. That sounds pretty straightforward. Why is it significant? It's significant because of the way the government defended the statute. The government's lead argument wasn't that crush videos were outside of First Amendment protection because they fell into an already-recognized exception, like defamation or obscenity or incitement. They argued that the Supreme Court should recognize a new categorical exception to First Amendment protection for animal cruelty, because animal cruelty is so awful. They also argued that courts can recognize new exceptions to the First Amendment by weighing the "value" of the targeted speech against the harm it threatens. The Supreme Court — in an 8 to 1 decision — firmly rejected those two arguments. **First, the Court said, the historically recognized exceptions to First Amendment protection are well-established, and you can't just go around adding new ones: From 1791 to the present,” however, the First Amendment has “permitted restrictions upon the content of speech in a few limited areas,” and has never “include[d] a freedom to disregard these traditional limitations.”** Id., at 382– 383. These “historic and traditional categories long familiar to the bar,” Simon & Schuster, Inc. v. Members of N. Y. State Crime Victims Bd. , 502 U. S. 105, 127 (1991) ( Kennedy, J. , concurring in judgment)—including obscenity, Roth v. United States , 354 U. S. 476, 483 (1957) , defamation, Beauharnais v. Illinois , 343 U. S. 250, 254–255 (1952) , fraud, Virginia Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc. , 425 U. S. 748, 771 (1976) , incitement, Brandenburg v. Ohio , 395 U. S. 444, 447–449 (1969) ( per curiam ), and speech integral to criminal conduct, Giboney v. Empire Storage & Ice Co. , 336 U. S. 490, 498 (1949) —are “well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem.” Chaplinsky v. New Hampshire , 315 U. S. 568, 571– 572 (1942) . Second, the Court said, **[T]he government's proposed methodology — that the Court should identify new categorical exceptions by balancing, on a case-by-case basis, the value of speech against its harm — is antithetical to First Amendment analysis and dangerous[.]**: “ The Government thus proposes that a claim of categorical exclusion should be considered under a simple balancing test: “Whether a given category of speech enjoys First Amendment protection depends upon a categorical balancing of the value of the speech against its societal costs.” Brief for United States 8; see also id., at 12. As a free-floating test for First Amendment coverage, that sentence is startling and dangerous. The First Amendment ’s guarantee of free speech does not extend only to categories of speech that survive an ad hoc balancing of relative social costs and benefits. The First Amendment itself reflects a judgment by the American people that the benefits of its restrictions on the Government outweigh the costs. Our Constitution forecloses any attempt to revise that judgment simply on the basis that some speech is not worth it. The Constitution is not a document “prescribing limits, and declaring that those limits may be passed at pleasure.” Marbury v. Madison , 1 Cranch 137, 178 (1803). So: in 2010, the Supreme Court overwhelmingly and clearly rejected the idea that legislatures and courts can create new exceptions to the First Amendment based on how strongly they hate speech or how awful it is**. He adds:** The flag-burning cases are important, like the crush videos case was important, because they draw a crucial line between having a few strictly limited exceptions to the First Amendment, on the one hand, and having as many exceptions as we feel like having, on the other hand. Flag burning isn't speech that's uniquely valuable or important to protect. **What's important is that we protect the** principled **method by which we determine which speech is protected and which isn't. The argument that flag burning should be outside the First Amendment can be applied with equal force to just about anything** — "hate speech," "cyber-bullying," "revenge porn," "pro-ISIS speech," or whatever the flavor of the month is.If think the majority was wrong in the flag burning cases, here's what you're saying: "**the Supreme Court makes bad judgments, and I want to give that Supreme Court the power to decide, on a case-by-case basis, whether the harm of speech outweighs its value**. I don't want the courts to be limited to established, well-defined categories outside of First Amendment protection." But **that's ridiculous. You're damn right it is.**

#### Counterspeech can solve their impacts.

Calleros 95 Charles, professor of law at Arizona State University, research interests include international and comparative contract law; international conflict of laws; the intersection of free speech with race and gender discrimination; and various issues regarding legal education. “PATERNALISM, COUNTERSPEECH, AND CAMPUS HATE-SPEECH CODES: A REPLY TO DELGADO AND YUN” Arizona State Law Journal. Winter, 1995. SA-IB

Delgado and Yun characterize these arguments as "paternalistic" and "seriously flawed." n49 In my reply below, I begin in part II.A with the fourth argument that more speech is the best response to offensive hate speech, and I attempt to establish that counterspeech is much more effective than Delgado and Yun are ready to concede. Within the same part, I conclude that free speech consequently can be a powerful instrument of reform benefitting minorities. In part II.B, I support the second argument against restrictions on speech with an example of a policy suppressing offensive speech that hurt a minority group on one campus and an example of a policy favoring speech and counterspeech that helped minorities on another campus. Finally, in part II.C, I support the notion that free speech allows a therapeutic venting of frustrations and provides valuable information about bigotry, but I qualify my conclusions. In the end, I favor education and counterspeech as a response to campus hate speech principally because I believe that such a response is more effective, empowering, constructive, and healing than is suppression of hateful speech. A. Speech as an Instrument of Reform: The Efficacy of Counterspeech Delgado and Yun summarize the support for the counterspeech argument by paraphrasing Nat Hentoff: "Antiracism rules teach black people to depend on whites for protection, while talking back clears the air, emphasizes self-reliance, and strengthens one's self-image as an active agent in charge of one's own destiny." n50 Delgado and Yun also cite to those who believe that counterspeech may help educate the racist speaker by addressing the ignorance and fear that lies behind hostile racial stereotyping. n51 But they reject this speech-protective argument, stating that "it is offered blandly, virtually as an article of faith" by those "in a position of power" [\*1257] who "rarely offer empirical proof of their claims." n52 The authors argue that talking back in a close confrontation could be physically dangerous, is unlikely to persuade the racist speaker to reform his views, and is impossible "when racist remarks are delivered in a cowardly fashion, by means of graffiti scrawled on a campus wall late at night or on a poster placed outside of a black student's dormitory door." n53 They also complain that "even when successful, talking back is a burden" that minority undergraduates should not be forced to assume. n54 In rejecting the counterspeech argument, however, Delgado and Yun cast the argument in its weakest possible form, creating an easy target for relatively summary dismissal. When the strategies and experiential basis for successful counterspeech are fairly stated, its value is more easily recognized. First, no responsible free speech advocate argues that a target of hate speech should directly talk back to a racist speaker in circumstances that quickly could lead to a physical altercation. If one or more hateful speakers closely confronts a member of a minority group with racial epithets or other hostile remarks in circumstances that lead the target of the speech to reasonably fear for her safety, in most circumstances she should seek assistance from campus police or other administrators before "talking back." Even staunch proponents of free speech agree that such threatening speech and conduct is subject to regulation and justifies more than a purely educative response. n55 The same would be true of Delgado's and Yun's other [\*1258] examples of speech conveyed in a manner that defaces another's property or invades the privacy of another's residence. n56 When offensive or hateful speech is not threatening, damaging, or impermissibly invasive and therefore may constitute protected speech, education and counterspeech often will be an appropriate response. n57 However, proponents of free speech do not contemplate that counterspeech always, or even normally, will be in the form of an immediate exchange of views between the hateful speaker and his target. Nor do they contemplate that the target should bear the full burden of the response. Instead, effective counterspeech often takes the form of letters, discussions, or demonstrations joined in by many persons and aimed at the entire campus population or a community within it. Typically, it is designed to expose the moral bankruptcy of the hateful ideas, to demonstrate the strength of opinion and numbers of those who deplore the hateful speech, and to spur members of the campus community to take voluntary, constructive action to combat hate and to remedy its ill effects. n58 Above all, it can serve to define and underscore the community of support enjoyed by the targets of the hateful speech, faith in which may have been shaken by the hateful speech. Moreover, having triggered such a reaction with their own voices, the targets of the hateful speech may well feel a sense of empowerment to compensate for the undeniable pain of the speech. n59 One may be tempted to join Delgado and Yun in characterizing such a scenario as one "offered blandly, virtually as an article of faith" and without experiential support. n60 However, campus communities that have creatively used this approach can attest to the surprising power of counterspeech. [\*1259] Examples of counterspeech to hateful racist and homophobic speech at Arizona State and Stanford Universities are especially illustrative. n61 In an incident that attracted national attention, the campus community at Arizona State University ("A.S.U.") constructively and constitutionally responded to a racist poster displayed on the outside of the speaker's dormitory door in February 1991. Entitled "WORK APPLICATION," it contained a number of ostensibly employment-related questions that advanced hostile and demeaning racial stereotypes of African-Americans and Mexican-Americans. Carla Washington, one of a group of African-American women who found the poster, used her own speech to persuade a resident of the offending room voluntarily to take the poster down and allow her to photocopy it. After sending a copy of the poster to the campus newspaper along with an opinion letter deploring its racist stereotypes, she demanded action from the director of her residence hall. The director organized an immediate meeting of the dormitory residents to discuss the issues. In this meeting, I explained why the poster was protected by the First Amendment, and the women who found the poster eloquently described their pain and fears. One of the women, Nichet Smith, voiced her fear that all nonminorities on campus shared the hostile stereotypes expressed in the poster. Dozens of residents expressed their support and gave assurances that they did not share the hostile stereotypes, but they conceded that even the most tolerant among them knew little about the cultures of others and would benefit greatly from multicultural education. n62 The need for multicultural education to combat intercultural ignorance and stereotyping became the theme of a press conference and public rally organized by the student African-American Coalition leader, Rossie Turman, who opted for highly visible counterspeech despite demands from some students and staff to discipline the owner of the offending poster. The result was a series of opinion letters in the campus newspaper discussing the problem of racism, numerous workshops on race relations and free speech, and overwhelming approval in the Faculty Senate of a measure to add a course on American cultural diversity to the undergraduate breadth requirement. n63 The four women who initially confronted the racist poster were empowered by the meeting at the dormitory residence and later received awards from the local chapter of the NAACP for their activism. n64 Rossie [\*1260] Turman was rewarded for his leadership skills two years later by becoming the first African-American elected President of Associated Students of A.S.U., n65 a student body that numbered approximately 40,000 students, only 2.3 percent of them African-American. n66 Although Delgado and Yun are quite right that the African-American students should never have been burdened with the need to respond to such hateful speech, Hentoff is correct that the responses just described helped them develop a sense of self-reliance and constructive activism. Moreover, the students' counterspeech inspired a community response that lightened the students' burden and provided them with a sense of community support and empowerment.

### uv – topicality

#### SCOTUS has ruled that ‘any’ can be limited.

Von Eintel 11 Kai, 7-6-2011, "Justice Breyer, Professor Austin, and the Meaning of 'Any'," Language Log, http://languagelog.ldc.upenn.edu/nll/?p=3248

In a recent interview, Supreme Court Justice Breyer lists the five books that have influenced his thinking the most. Among them: J.L. Austin's How to Do Things with Words. Breyer says: JL Austin was an ordinary language philosopher. When I studied in Oxford, I went to one of his classes and I read his books. How to Do Things with Words teaches us a lot about how ordinary language works. It is useful to me as a judge, because it helps me avoid the traps that linguistic imprecision can set. If I had to pick a single thing that I draw from Austin's work it would be that context matters. It enables us to understand, when someone makes a statement, what that statement refers to and what that person meant. When I see the word "any" in a statute, I immediately know it's unlikely to mean "anything" in the universe. "Any" will have a limitation on it, depending on the context. When my wife says, "there isn't any butter," I understand that she's talking about what is in our refrigerator, not worldwide. We look at context over and over, in life and in law. Austin suggests that there is good reason to look beyond text to context. Context is very important when you examine a statement or law. A statement made by Congress, under certain formal conditions, becomes a law. Context helps us interpret language, including the language of a statute. Purpose is often an important part of context. So Austin probably encourages me to put more weight on purpose. It is very interesting that Breyer should choose the word "any" as an example of why context matters. A few years back, there was in fact a Supreme Court decision (Small v. United States) that hinged on the meaning of "any" (pdf of the decision here]). And as it turns out, Justice Breyer wrote the decision for the majority (made up of Breyer, Stevens, O'Connor, Souter, and Ginsburg; ah the good old days). The background: Petitioner Small was convicted in a Japanese Court of trying to smuggle firearms and ammunition into that country. He served five years in prison and then returned to the United States, where he bought a gun. Federal authorities subsequently charged Small under 18 U. S. C. §922(g)(1), which forbids "any person … convicted in any court … of a crime punishable by imprisonment for a term exceeding one year … to … possess … any firearm." Small subsequently argued that any court was not meant to encompass foreign courts, only domestic ones. The Supreme Court agreed. The arguments in the decision are a good case study of semantics/pragmatics in the real (well, legal) world. Here are some excerpts: The question before us is whether the statutory reference "convicted in any court" includes a conviction entered in a foreign court. The word "any" considered alone cannot answer this question. In ordinary life, a speaker who says, "I'll see any film," may or may not mean to include films shown in another city. In law, a legislature that uses the statutory phrase " 'any person' " may or may not mean to include " 'persons' " outside "the jurisdiction of the state." See, e.g., United States v. Palmer, 3 Wheat. 610, 631 (1818) (Marshall, C. J.) ("[G]eneral words," such as the word "'any,' " must "be limited" in their application "to those objects to which the legislature intended to apply them"); Nixon v. Missouri Municipal League, 541 U. S. 125, 132 (2004) (" 'any' " means "different things depending upon the setting"); United States v. Alvarez-Sanchez, 511 U. S. 350, 357 (1994) ("[R]espondent errs in placing dispositive weight on the broad statutory reference to 'any' law enforcement officer or agency without considering the rest of the statute"); Middlesex County Sewerage Authority v. National Sea Clammers Assn., 453 U. S. 1, 15-16 (1981) (it is doubtful that the phrase " 'any statute' " includes the very statute in which the words appear); Flora v. United States, 362 U. S. 145, 149 (1960) ("[A]ny sum," while a "catchall" phase, does not "define what it catches"). Thus, even though the word "any" demands a broad interpretation, see, e.g., United States v. Gonzales, 520 U. S. 1, 5 (1997), we must look beyond that word itself.

#### Don’t play games with definitions – even if my definition isn’t the best reading of the res, its at least a reading of the res – means pragmatics determine which reading of the res is better.

#### Adopt reasonability on topicality specifically with a briteline of the aff defending a specific type of restriction for all types of speech, with literature that answers it, and it’s the TOC –

1. we’ve been debating the topic for 4 months – whole res will ensure stale debates and people avoiding clash just by prepping on 1NC that will link no matter what – good enough is good enough in order to actually have the aff win some debates at the TOC

2. there is not a single generic that they lose from the plan – even if the links are mitigated just a little, it doesn’t outweigh nuanced clash and better education on multiple facets of the topic

3. Empirics – there are about 6 plans on this topic and 50 PICs out of random different CPS – aff flex doesn’t explode the topic

### uv – theory

#### 1AR Theory Good

Aff gets 1ar theory and it’s a voting issue – a) absent 1AR theory, the neg can engage in infinite abuse which outweighs all other offense b) the 1AR is too short to check abuse and still have a fair shot on substance

#### Theory Voters

Fairness is a voter because debate’s a competitive game that needs rules to maintain in round equity. Education is a voter because its the purpose of debate and it’s the only out of round impact.

#### Aff RVIs

if I win a counter-interpretation to T or theory, vote aff. Time-pressed rebuttals means the aff needs the ability to collapse to theory in order to overcome the inequity of the speech times. Otherwise the 2NR would also moot a large portion of the 1AR by kicking theory. Prefer time skew to other links to fairness because it’s quantifiable and verifiable.

#### No Neg RVIs

No neg RVIs a) aff flex – allows me to go down to substance if the 2NR screws up, which should always be available b) the 2NR has plenty of time to cover theory and substance c) neg RVIs encourage a 6-minute blip storm collapse on theory that it’s impossible for me to prove abuse.

#### No 2NR theory

No 2NR or 2AR theory that’s drop the debater – if the 1AR did something abusive, then all you have to do is spend about 20 seconds giving reasons to reject the arg instead of a theory shell which is unfair because it creates a 6-3 skew for the neg on theory. Since no judge will vote on the 2ar RVI the skew becomes exacerbated as I have to go for substance as well.

#### Meta-Theory First

Theory outweighs the argument it indicts – a. jurisdiction – you do not know if an argument is true unless I had the ability to engage it, b. it promotes norms that maximize engagement on a specific issue, which link turns reasons theory is bad; preserving the ability to substantively answer a position is the only way those arguments can have value in debate, which theory does

#### Neg Abuse outweighs Aff Abuse

neg abuse outweighs aff abuse. a) Some aff abuse is necessary to overcome neg side bias and time skew, b) aff speaks in the dark while the neg is reactive, which means when assessing whether their arguments are abusive they can compare directly with the circumstances of the round—I have to do so hypothetically.

#### Presume Aff

presume aff. 1) we presume statements to be true when we are first told them, like if I told you my name was Ishan 2) 7-4-6-3 time skew means a) if we’re tied, I’ve done the better debating and b) It’s fairer to give the aff the advantage of being able to win by eliminating all offense than the neg 3) action – we wouldn’t be able to walk or talk without mass ethical theorizing unless we presumed things were okay until we disproved that

#### Comparative Worlds

Comparative Worlds is good – the neg must prove proactive desirability of a competitive advocacy. Truth-testing gives the neg an infinite amount of NIBs-they can prove morality doesn’t exist, it’s inaccessible, or read multiple side constraint theories. If they have to prove desirability then they share assumptions with the aff which levels out the playing field, so it’s key to fairness.

#### Only 1 Shell

neg may only read 1 T or theory shell. Multiple shells spread out the 1AR and allow the 2NR to collapse to whichever shell was under covered, meaning I wasn’t given a fair shot at justifying my practice. Multiple rounds solve your offense since we can check lots of abusive practices over time.

#### Modesty

Use epistemic modesty – multiply impact by probability of ethical theory being true – we can never be totally confident in any conclusion-humans make mistakes evaluating arguments all the time. Being ahead on the framework debate doesn’t create 100% confidence- rather we should account for our errors by granting credence to both contentions.

### uv – framework v K

#### The standard is resisting oppression –

#### 1. deciding on ethical theories requires an accurate conception of reality that oppression makes impossible.

Friere 68 Paulo, PhD in Philosophy, Educator & Author, Leading Advocate for Critical Pedagogy, Winner of the UNESCO 1986 Prize for Education for Peace. “pedagogy of the oppressed” 1968 SA-IB

Reality which becomes oppressive results in the contradistinction of men as oppressors and oppressed. The latter, whose task it is to struggle for their liberation together with those who show true solidarity, must acquire a critical awareness of oppression through the praxis of this struggle. One of the gravest obstacles to the achievement of liberation is that oppressive reality absorbs those within it and thereby acts to submerge human beings consiousness. Functionally, oppression is domesticating. To no longer be prey to its force, one must emerge from it and turn upon it. This can be done only by means of the praxis: reflection and action upon the world in order to transform it. i Hay que hacer al opresion real todavia mas opresiva anadiendo a aquella la conciencia de la opresion haciendo la infamia todavia mas infamante, al pregonarla.7 Making "real oppression more oppressive still by adding to it the realization of oppression" corresponds to the dialectical relation between the subjective and the objective. Only in this interdependence is an authentic praxis possible, without which it is impossible to resolve the oppressor-oppressed contradiction. To achieve this goal, the oppressed must confront reality critically, simultaneously objectifying and acting upon that reality. A mere perception of reality not followed by this critical intervention will not lead to a transformation of objective reality—precisely because it is not a true perception. This is the case of a purely subjectivist perception by someone who forsakes objective reality and creates a false substitute. A different type of false perception occurs when a change in objective reality would threaten the individual or class interests of the perceiver. In the first instance, there is no critical intervention in reality because that reality is fictitious; there is none in the second instance because intervention would contradict the class interests of the perceiver. In the latter case the tendency of the perceiver is to behave "neurotically." The fact exists; but both the fact and what may result from it may be prejudicial to the person. Thus it becomes necessary, not precisely to deny the fact, but to ‘see it differently.’ This rationalization as a defense mechanism coincides in the end with subjectivism. A fact which is not denied but whose truths are rationalized loses its objective base. It ceases to be concrete and becomes a myth created in defense of the class of the perceiver. Herein lies one of the reasons for the prohibitions and the difficulties (to be discussed at length in Chapter 4) designed to dissuade the people from critical intervention in reality. The oppressor knows full well that this intervention would not be to his interest. What is to his interest is for the people to continue in a state of submersion, impotent in the face of oppressive reality. Of relevance here is Lukacs warning to the revolutionary party: . . . il doit, pour employer les mots de Marx, expliquer aux masses leur propre action non seulement afin d'assurer la continuity des experiences revolutionnaires du proletariat, mais aussi d'activer consciemment le developpement ulterieur de ces experiences.

#### 2. adopting the standpoint of the oppressed is key.

Mills 05 Charles Mills, “Ideal Theory” as Ideology, 2005.

**The crucial common claim—whether couched in terms of ideology and fetishism, or androcentrism, or white normativity—is that all theorizing, both moral and nonmoral, takes place in an intellectual realm dominated by concepts, assumptions, norms, values, and framing perspectives that reflect the experience and group interests of the privileged group** (whether the bourgeoisie, or men, or whites). So **a simple empiricism will not work as a cognitive strategy; one has to be self-conscious about the concepts that “spontaneously” occur to one, since many of these concepts will not arise naturally but as the result of social structures and hegemonic ideational patterns.** In particular, it will often be the case that **dominant concepts will obscure certain crucial realities, blocking them from sight, or naturalizing them, while on the other hand, concepts necessary for accurately mapping these realities will be absent.** Whether in terms of concepts of the self, or of humans in general, or in the cartography of the social, it will be necessary to scrutinize the dominant conceptual tools and the way the boundaries are drawn. This is, of course, the burden of standpoint theory—that certain realities tend to be more visible from the perspective of the subordinated than the privileged (Harding 2003). The thesis can be put in a strong and implausible form, but weaker versions do have considerable plausibility, as illustrated by the simple fact that for the most part the crucial conceptual innovation necessary to map nonideal realities has not come from the dominant group. In its ignoring of oppression, ideal theory also ignores the consequences of oppression. If societies are not oppressive, or if in modeling them we can abstract away from oppression and assume moral cognizers of roughly equal skill, then the paradigmatic moral agent can be featureless. No theory is required about the particular group-based obstacles that may block the vision of a particular group. By contrast, nonideal theory recognizes that people will typically be cognitively affected by their social location, so that on both the macro and the more local level, the descriptive concepts arrived at may be misleading. Think of the original challenge Marxist models of capitalism posed to liberalism’s social ontology: the claim that to focus on relations of aparently equal exchange, free and fair, among equal individuals was illusory, since at the level of the relations of production, the real ontology of worker and capitalist manifested a deep structure of constraint that limited proletarian freedom. Think of the innovation of using patriarchy to force people to recognize, and condemn as political and oppressive, rather than natural, apolitical, and unproblematic, male domination of women. Think of the recent resurrection of the concept of white supremacy to map the reality of a white domination that has continued in more subtle forms past the ending of de jure segregation. These are all global, high-level concepts, undeniable abstractions. But they map accurately (at least arguably) crucial realities that differentiate the statuses of the human beings within the systems they describe; so while they abstract, they do not idealize. Or consider conceptual innovation at the more local level: the challenge to the traditional way the public/private distinction was drawn, the concept of sexual harassment. In the first case, a seemingly neutral and innocuous conceptual divide turned out, once it was viewed from the perspective of gender subordination, as contributing to the reproduction of the gender system by its relegation of “women’s issues” to a seemingly apolitical and naturalized space. In the case of sexual harassment, a familiar reality—a staple of cartoons in men’s magazines for years (bosses chasing secretaries around the desk and so on)—was reconceptualized as negative (not something funny, but something morally wrong) and a contributor to making the workplace hostile for women. **These realizations, these recognitions, did not spontaneously crystallize out of nowhere; they required conceptual labor, a different map of social reality**, **a valorization of** the **distinctive experience** of women. **As a result of having these concepts as** visual **aids**, we can now see better: **our perceptions are no longer [ignorant]** blinded **to realities to which we were previously obtuse.** In some sense, **an ideal observer should have been able to see them—yet they did not, as shown by the nonappearance of these realities in male-dominated philosophical literature.**

#### Police abolition is consistent with any meta level kritik.

Wilderson 16 Frank, American writer, dramatist, filmmaker and critic. He is a full professor of Drama and African American studies at the University of California, Irvine, received his BA in government and philosophy from Dartmouth College, his Masters in Fine Arts from Columbia University and his PhD in Rhetoric and Film Studies from the University of California, Berkeley. Interviewed by Samira Spatzek, and Paulavon Gleich. “‘The Inside-Outside of Civil Society’: An Interview with Frank B. Wilderson, III.” Black Studies Papers 2.1 (2016) SA-IB

The question is, can Black political organizing in Ferguson and Baltimore and these places catch up with that, because unfortunately, we have a problem in that the country is so much more of a police state than it has ever been and you know that just by watching television. When I was in school, if you liked the American flag, if you liked the police, you didn’t have any friends. Now, I find young college students are very slow to say that they hate America, very slow to say that they hate the police. What we’re trying to do now is to infuse an antagonistic orientation in Black people who are white-collar people in college so that their intellectual skills can be enhanced by the orientation that is felt by Black people in the ghetto. If this doesn’t happen they run risk of being anointed and appointed (by the power structure) to manage the anger of Black people in the street, rather than relate to that anger. So that’s a hurdle that we have to overcome. You know, I’ve been doing political education workshops for Black Lives Matter in New York and Los Angeles, and probably will do more in Chicago. And what I hope to have people do workshop exercises around is this concept that I have called “Two Trains Running (Side by Side).” By that I mean, you can do your political organizing that will help us get relief from police brutality right now. We need that. We need that. But that work that we do should be seen as puny in terms of its philosophical and theoretical orientation so that we can educate ourselves politically to be against the police as an institution and against the United States as a country, even while we are working to reform police practices, because we do not have the strength right now that we had in the 1960s and 1970s to act in the way the Black Liberation Army did, or Baader Meinhof, we do not have the strength to act in the revolutionary mode, but that lack of strength, that lack of capacity, should not contaminate our orientation. We should not feel that we have to accept the existence of police even if we’re working in reformist measures politically. Hopefully this idea of two trains running will pick up. Black Lives Matter has done a great job in opening up a new Black political organizing space. That’s great. Now let’s use that space for an educational project that is soundly anti-American, and soundly anti-police even if tactically, we have to work for police reforms.

**Omitted the rest of the k pre-empts**

### uv – framework v NC

#### The standard is resisting oppression –

#### 1. deciding on ethical theories requires an accurate conception of reality that oppression makes impossible.

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Reality which becomes oppressive results in the contradistinction of men as oppressors and oppressed. The latter, whose task it is to struggle for their liberation together with those who show true solidarity, must acquire a critical awareness of oppression through the praxis of this struggle. One of the gravest obstacles to the achievement of liberation is that oppressive reality absorbs those within it and thereby acts to submerge human beings consiousness. Functionally, oppression is domesticating. To no longer be prey to its force, one must emerge from it and turn upon it. This can be done only by means of the praxis: reflection and action upon the world in order to transform it. i Hay que hacer al opresion real todavia mas opresiva anadiendo a aquella la conciencia de la opresion haciendo la infamia todavia mas infamante, al pregonarla.7 Making "real oppression more oppressive still by adding to it the realization of oppression" corresponds to the dialectical relation between the subjective and the objective. Only in this interdependence is an authentic praxis possible, without which it is impossible to resolve the oppressor-oppressed contradiction. To achieve this goal, the oppressed must confront reality critically, simultaneously objectifying and acting upon that reality. A mere perception of reality not followed by this critical intervention will not lead to a transformation of objective reality—precisely because it is not a true perception. This is the case of a purely subjectivist perception by someone who forsakes objective reality and creates a false substitute. A different type of false perception occurs when a change in objective reality would threaten the individual or class interests of the perceiver. In the first instance, there is no critical intervention in reality because that reality is fictitious; there is none in the second instance because intervention would contradict the class interests of the perceiver. In the latter case the tendency of the perceiver is to behave "neurotically." The fact exists; but both the fact and what may result from it may be prejudicial to the person. Thus it becomes necessary, not precisely to deny the fact, but to ‘see it differently.’ This rationalization as a defense mechanism coincides in the end with subjectivism. A fact which is not denied but whose truths are rationalized loses its objective base. It ceases to be concrete and becomes a myth created in defense of the class of the perceiver. Herein lies one of the reasons for the prohibitions and the difficulties (to be discussed at length in Chapter 4) designed to dissuade the people from critical intervention in reality. The oppressor knows full well that this intervention would not be to his interest. What is to his interest is for the people to continue in a state of submersion, impotent in the face of oppressive reality. Of relevance here is Lukacs warning to the revolutionary party: . . . il doit, pour employer les mots de Marx, expliquer aux masses leur propre action non seulement afin d'assurer la continuity des experiences revolutionnaires du proletariat, mais aussi d'activer consciemment le developpement ulterieur de ces experiences.

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#### 3. oppression turns any NC –

#### a) arbitrariness – identity is morally arbitrary, so allowing discrimination undermines the foundation of a moral theory

#### b) inclusion is an epistemological prerequisite – oppression is the biggest impact since we can’t form moral theories until all those affected are included by it

#### c) any theory that condones an unequal societal order should be rejected since it would not be accepted by those at the bottom – this makes it useless as a political philosophy, which must be justifiable to the citizens who the government rules over

#### 4. Non-ideal theory has to be a starting point – ideal theory only functions in a world where everyone follows it, it presumes the world is just. Non-ideal theory asks what is moral in a world that is unjust, which is fundamentally different.

#### Consequentialism is true –

#### ommitted

# Frontlines – T

## a2 T-Any

### a2 t-any

counter-interp: at the TOC, the aff may specify a type of restriction if they remove it for all protected speech

1. clash – restrictions have different effects; whole res kills clash on the aff advantage – spec is key at TOC because we’ve had 4 months to learn

2. skew – neg gets PICs out of any speech – outweighs **A.** explodes limits – they can PIC out of single colleges or speech while I defend an entire restriction **B.** they only have to prep one 1NC which kills deep research **C.** empirics, there are 6 plans and 50 different PICs, moots your standards **D.** they can read generics against plans but the 1AR can’t against PICs

3. depth – spec makes us focus on a single implementable policy

### a2 limits

1. clash outweighs – hard workers can prep many affs but can’t affirm an impossible topic

2. generics check – you get every single one

3. counter-interp checks – only a few type of restrictions

4. T – more research is good, creates better thinkers

### a2 limits – fire

only three affs under my interp.

Fire 16 Foundation for Individual Rights in Education, founded in 1999 by University of Pennsylvania professor Alan Charles Kors and Boston civil liberties attorney Harvey Silverglate after the overwhelming response to their landmark 1998 book, The Shadow University: The Betrayal of Liberty On America’s Campuses. “Campus Rights” 2016. https://www.thefire.org/campus-rights/ SA-IB

Freedom of speech is a fundamental American freedom and a human right, and there’s no place that this right should be more valued and protected than America’s colleges and universities. A university exists to educate students and advance the frontiers of human knowledge, and does so by acting as a “marketplace of ideas” where ideas compete. The intellectual vitality of a university depends on this competition—something that cannot happen properly when students or faculty members fear punishment for expressing views that might be unpopular with the public at large or disfavored by university administrators. Nevertheless, freedom of speech is under continuous threat at many of America’s campuses, pushed aside in favor of politics, comfort, or simply a desire to avoid controversy. As a result, \*\*[1]\*\* speech codes dictating what may or may not be said, “\*\*[2]\*\* free speech zones” confining free speech to tiny areas of campus, and \*\*[3]\*\* administrative attempts to punish or repress speech on a case-by-case basis are common today in academia.

### a2 ground

1. plenty of literature on why police are necessary – its why they exist now – cut cards

2. generics check – you get every single one

3. structural abuse outweighs substantive abuse – hard debate is good debate

### a2 breadth

1. T – plans key to breadth plus clash which is better

2. not everyone reads plans, so you still get breadth

### a2 textuality

1. I’m textual – “any” modifies “speech” not “restriction”

2. courts have ruled any can be limited

Kai Von Eintel 11, 7-6-2011, "Justice Breyer, Professor Austin, and the Meaning of 'Any'," Language Log, http://languagelog.ldc.upenn.edu/nll/?p=3248

In a recent interview, Supreme Court Justice Breyer lists the five books that have influenced his thinking the most. Among them: J.L. Austin's How to Do Things with Words. Breyer says: JL Austin was an ordinary language philosopher. When I studied in Oxford, I went to one of his classes and I read his books. How to Do Things with Words teaches us a lot about how ordinary language works. It is useful to me as a judge, because it helps me avoid the traps that linguistic imprecision can set. If I had to pick a single thing that I draw from Austin's work it would be that context matters. It enables us to understand, when someone makes a statement, what that statement refers to and what that person meant. When I see the word "any" in a statute, I immediately know it's unlikely to mean "anything" in the universe. "Any" will have a limitation on it, depending on the context. When my wife says, "there isn't any butter," I understand that she's talking about what is in our refrigerator, not worldwide. We look at context over and over, in life and in law. Austin suggests that there is good reason to look beyond text to context. Context is very important when you examine a statement or law. A statement made by Congress, under certain formal conditions, becomes a law. Context helps us interpret language, including the language of a statute. Purpose is often an important part of context. So Austin probably encourages me to put more weight on purpose. It is very interesting that Breyer should choose the word "any" as an example of why context matters. A few years back, there was in fact a Supreme Court decision (Small v. United States) that hinged on the meaning of "any" (pdf of the decision here]). And as it turns out, Justice Breyer wrote the decision for the majority (made up of Breyer, Stevens, O'Connor, Souter, and Ginsburg; ah the good old days). The background: Petitioner Small was convicted in a Japanese Court of trying to smuggle firearms and ammunition into that country. He served five years in prison and then returned to the United States, where he bought a gun. Federal authorities subsequently charged Small under 18 U. S. C. §922(g)(1), which forbids "any person … convicted in any court … of a crime punishable by imprisonment for a term exceeding one year … to … possess … any firearm." Small subsequently argued that any court was not meant to encompass foreign courts, only domestic ones. The Supreme Court agreed. The arguments in the decision are a good case study of semantics/pragmatics in the real (well, legal) world. Here are some excerpts: The question before us is whether the statutory reference "convicted in any court" includes a conviction entered in a foreign court. The word "any" considered alone cannot answer this question. In ordinary life, a speaker who says, "I'll see any film," may or may not mean to include films shown in another city. In law, a legislature that uses the statutory phrase " 'any person' " may or may not mean to include " 'persons' " outside "the jurisdiction of the state." See, e.g., United States v. Palmer, 3 Wheat. 610, 631 (1818) (Marshall, C. J.) ("[G]eneral words," such as the word "'any,' " must "be limited" in their application "to those objects to which the legislature intended to apply them"); Nixon v. Missouri Municipal League, 541 U. S. 125, 132 (2004) (" 'any' " means "different things depending upon the setting"); United States v. Alvarez-Sanchez, 511 U. S. 350, 357 (1994) ("[R]espondent errs in placing dispositive weight on the broad statutory reference to 'any' law enforcement officer or agency without considering the rest of the statute"); Middlesex County Sewerage Authority v. National Sea Clammers Assn., 453 U. S. 1, 15-16 (1981) (it is doubtful that the phrase " 'any statute' " includes the very statute in which the words appear); Flora v. United States, 362 U. S. 145, 149 (1960) ("[A]ny sum," while a "catchall" phase, does not "define what it catches"). Thus, even though the word "any" demands a broad interpretation, see, e.g., United States v. Gonzales, 520 U. S. 1, 5 (1997), we must look beyond that word itself.

### a2 textuality first

1. if I have a definition, default to pragmatics – we don’t decide interps on which one is the most grammatical, but rather which is the best for debate

2. this is racist – voting issue for deterrence and its key to punish racism as a judge.

Niemi 15 Rebar. “Nebel T: I sip it.” Premier Debate. September 22, 2015.

Correctness is racism. Correctness is “you must be either a boy or a girl or you are wrong.” Correctness is “the ideal functioning body versus all others.” Correctness is one kind of person having access to The Truth and others lacking it. Correctness is “sit down and shut up.” Correctness is “your kind aren’t welcome here.” Any debater who runs so called “Nebel T” and any judge who votes for this argument must acknowledge that they are situationally and strategically embracing a perspective from which there is an implicit or explicit metric of what it means to be a competent english speaker. What is the logical conclusion of speaking competent english? The notion that “mongrel” forms of english are inferior, diminished, unpersuasive, and should not have access to the ballot. Quite possibly the notion that those who can’t live up to these standards should not be involved in debate. After all, their dialects are not what resolutions are written in – it is people like Mr. Nebel whose dialect prescribes correct resolutional meaning.

Your argument is that unless we all speak the king’s english, fairness, education, nor oppression matters – that’s ridiculous.

3. Prefer pragmatic benefits- there’s no way to weigh between semantic interps because they just rely on competing conceptions of grammar- fairness and education need to be a part of it.

4. This relies on truth testing and that the affs burden is to prove the resolution true but comparing worlds is better, I just have to prove a world is good.

5. Adhering to strict resolution text does not produce fair and educational debate – the res is written by traditional 80 years old for lay debaters. We should be allowed to modify it.

6. the ‘topicality rule’ is nonsense-you can evaluate my standards like that too. The ‘aff flex’ and ‘depth’ rule also promote fair and educational outcomes.

### a2 no neg pics

1. they can’t tack this on to their interp – its not an interp of the resolution

2. reject their interp on face – that plank of their interp isn’t justified, which leads to bad theory

## a2 New Affs Bad

### counter-interp

ommitted

### a2 clash/research

### a2 cheap shots (hw)

## a2 T-Government

### A2 Must Defend Gov

counter-interp: the aff can defend that all public colleges and universities take the aff action without a unified actor

1. framers intent – the actor in the res is colleges so I defend all colleges have an obligation for the plan

2. their interp is literally impossible

Free Dictionary http://legal-dictionary.thefreedictionary.com/Colleges+and+Universities SA-IB

Public institutions are established either by state constitution or by statute, and they receive funding from state appropriationsas well as tuition and endowments. Although the federal government operates several institutions of higher learning, such asthe U.S. Military Academy and the U.S. Air Force Academy, it is prohibited by statute from exercising direct control over other educational institutions.

3. no fiat abuse – fiating congress acts is just as ideal because you have to fiat that they do something we should get to fiat institution’s actions

## a2 Must Spec CPS

### Counter-Interp

Counter-Interp: the aff does not have to specify what constitutionally protected speech entails if they say they will defend all constitutionally protected speech

1. lit checks abuse – they can cut cards about how their links are to CPS, so there’s no abuse

2. clash – there are debate over whether things are protected, so having them to learn about case law is key to education

3. this is silly – it forces me to spend 4 minutes of the aff listing the speech I’ll defend and then the neg gets to read random theory because I didn’t include this one type of speech

## a2 T-Legal Ought

### Counter-Interp

ommited

### A2 LHP’s Standards

## a2 New Plans Bad

### Counter-Interp

ommited

## a2 Must Disclose Plans

### Counter-Interp

ommited

# Frontlines – Case

## A2 Generic Turns

### A2 Black Cops Lose Jobs

#### 1] no link – cops can still stay on campus – they just can’t restrict protected speech

#### 2] they don’t lose their job – they go back to their department – bias response times use cops from local departments, which means the cops the affirmative removes just go back to their department.

### A2 Protest Safety

1. impact turn – violent protests good

2. no link – the minute protests are violent, its no longer protected

3. cross-apply Anderson – cops pepper spray peaceful protests

# Frontlines – NC

## General

### NIBs Bad

#### NIBs are unfair – they skew reciprocal burdens because the neg can win by winning one of their burdens and I have to meet both burdens in order to win, which doubles time skew. Reciprocity is the definition of fairness so it outweighs. Voter and drop the debater were conceded.

#### Multiple NIBs are unfair – the skew reciprocal burdens because they can win on multiple layers individually while I have to beat back all of them – more than one NIB explodes time skew because they become blippy no risk issues that the neg reads with impunity. Reciprocity is the definition of fairness so it outweighs. Voter and drop the debater were conceded.

## A2 Kant NC

### 1AR – Kant NC

they have to prove that status quo police officers don’t restrict anything but their contention offense – they can’t do that so vote aff – you can’t restrict lots of things in order to restrict one Kantian thing, that turns the NC. It’s like winning 30% of handguns violate freedom, therefore you ban all handguns, which violates Kant

cross-apply FIRE and Airaksinen – law enforcement define speech broadly and crack down on things like political expression – its better under Kant to affirm

#### Kant loves free speech and the neg collapses the omnilateral will.

Varden 10 **brackets for gendered language** Helga, Associate professor of philosophy, associate professor of gender studies at the University of Illinois. Varden’s main research interests are in legal, political, and feminist philosophy, with an emphasis on the Kantian and the Lockean traditions. She has published on a range of classical philosophical issues, currently the co-president for the Society for the Philosophy of Sex and Love and the Vice-President of the North American Kant Society. “A Kantian Conception of Free Speech” 2010. SA-IB

There is clear textual support that Kant provides the kind of twofold defense of free speech argued here, namely that communication of thought does not typically involve private wrongdoing and that the state must protect free speech in order to function as a representative authority. To outlaw free speech, Kant argues in the essay “What is Enlightenment?”, is to “renounce enlightenment… [and] to violate the sacred right of humanity and trample it underfoot” (8: 39). Outlawing free speech is not only stupid, since it makes enlightenment or governance through reason impossible [and], but it involves denying people their right of humanity. Their right of humanity is denied by outlawing free speech, because such legislation involves using coercion against the citizens even when their speech does not deprive anyone of what is theirs. Moreover, outlawing free speech evidences a government “which misunderstands itself” (8: 41). Similarly, Kant argues both in this text and in “Theory and Practice” that such legislation expresses sheer irrational behavior on the part of a government. “[F]reedom of the pen”, Kant writes in the latter essay, is the sole palladium of the people’s rights. For to want to deny them this freedom is not only tantamount to taking from them any claim to a right with respect to the supreme commander (according to Hobbes), but is also to withhold from the latter – whose will gives order to the subjects as citizens only by representing the general will of the people – all knowledge of matters that he himself would change if he knew about them and to put him in contradiction with himself…. (8: 304, cf. 8: 39f) Free speech is seen as the ultimate safeguard or protection of the people’s rights. Therefore, a public authority – an authority representing the will of the citizens and yet the will of no one in particular – cannot outlaw free speech, since citizens qua citizens cannot be seen as consenting to it. Such a decree would bring the sovereign ‘in contradiction with [themself] himself’ since it would involve denying the sovereign the vital information it needs in order to act as the representative of the people. In “What is Enlightenment?” Kant expands this point: “[t]he public use of one’s reason must always be free… by the public use of one’s own reason I understand that use which someone makes of it as a scholar before the entire public of the world of readers” (8: 37). Every citizen must have the right to engage truthfully, yet critically in public affairs – to be a scholar – and so to raise her voice and explain why she judges the current public system of laws to be unjust or unfair. If such voices are not raised, the public authority cannot possibly be able to govern wisely; without a public expression of the consequences for right of particular laws, the public authority does not have the information required to secure right for all and so to represent its citizens

#### Their Varden evidence is a reinterpretation of Kant that makes zero sense –

A2 Hate Speech – their warrant is that restricting hate speech is a reimbursement for past racism, but they haven’t proved status quo white people are responsible for past racism, which means restricting white people now is coercion and does nothing about white people back then

A2 Seditious Speech – there’s zero warrant why VERBAL speech can amount to collapsing the omnilateral will, in fact, political dissent provides the state the information it needs to be the omnilateral will, which means this goes AFF

### 1AR – Kant I-Law

#### I-Law affirms – consistently, I-law has denounced over policing in America and our shitty CJS system. Their arguments aren’t intrinsic to the aff – we can restrict hate speech through policies and speech codes, just not with cops, which solves their offense.

#### International law hates our policing.

Sanchez-Moreno 15 Maria, co-director of the U.S. program at Human Rights Watch. “Hold the US accountable on human rights” May 11, 2015. http://america.aljazeera.com/opinions/2015/5/holding-the-us-accountable-on-human-rights.html

The United States has its second universal periodic review (UPR) before the United Nations Human Rights Council in Geneva on Monday. Countries will be able to ask the U.S. questions and make recommendations about its implementation of human rights commitments made during its first review, which took place in 2010, as well as about other issues of concern. At the top of the list should be Washington’s failure to hold accountable those responsible for the systematic torture carried out by the Central Intelligence Agency in the global “war on terrorism.” Five years ago, the U.S. accepted a UPR recommendation from Denmark to “take measures to eradicate” and “thoroughly investigate” all forms of torture and abuse by military or civilian personnel within its jurisdiction. But the only investigation into CIA torture conducted by the U.S. Department of Justice was limited in scope and closed in 2012 with no charges filed. Nor does it seem to have met basic standards of credibility or thoroughness; investigators apparently never bothered to interview key witnesses of the abuse: the detainees. The U.S. has finally begun to tell the truth about what happened: the December 2014 release of a partially redacted summary of a detailed U.S. Senate Intelligence Committee report that describes, in harrowing detail, many of the acts of torture to which CIA officials subjected detainees. Yet the full 6,700-page report remains classified, and Barack Obama’s administration has expressed no interest in appointing a special prosecutor and opening new investigations. Countries that have succeeded in bringing to justice those responsible for atrocities should take the lead in pressing the U.S. to act. Indefinite detention at Guantánamo Bay remains another outstanding concern. The administration has reiterated its commitment to close the facility and has gradually transferred some detainees to other countries. But 122 men remain locked up in the detention center because of congressional restrictions on transfers and apparent foot dragging by the Department of Defense. These men have no clear prospect of release or a fair trial under military commissions, which are fundamentally flawed. Among other problems, they allow the use of evidence obtained by coercion, fail to protect attorney-client privilege and use rules that block the defense from obtaining information essential to the case, including about the CIA’s treatment of the detainees on trial while they were in its custody. Nearly two years since Snowden’s first disclosures, neither the White House nor Congress has yet to impose meaningful limits on the NSA's mass surveillance programs. Serious and longstanding human rights problems also plague the U.S. criminal justice system, including poor prison conditions, disproportionately harsh sentencing, the death penalty and abusive police practices. As the protests in many U.S. cities over the deaths of African-Americans Michael Brown, Eric Garner, Walter Scott, Freddie Gray and others show, there is strong and understandable public concern over police brutality and racial discrimination in the U.S. criminal justice system. Other governments should press the U.S. to clean up these blots on its record. Countries should also call the U.S. out on abuses in its immigration system, notably its recent decision to detain immigrant families with children who are apprehended crossing the border. The administration admits the detentions are aimed at deterring other migrants, many of whom are fleeing persecution at home. But international law bars all detention of children for immigration purposes, which is profoundly harmful to their development. The large-scale U.S. surveillance programs revealed by National Security Agency whistleblower Edward Snowden raise further concerns. Nearly two years since his first disclosures, neither the White House nor Congress has yet to impose meaningful limits on these programs, which affect potentially millions of people inside and outside the U.S. Even a very modest bill to impose some constraints on domestic surveillance, the USA Freedom Act, faces strong opposition from legislators who support the programs. In this context, it is ever more critical that concerned governments join others, like those of Brazil and Germany, that have been pressing the U.S. to reform. The U.S. has put a lot of effort into strengthening the U.N. Human Rights Council and making the UPR a useful process when it comes to dealing with other countries. It has also made a point of setting a good example, by engaging in extensive consultation with nongovernmental organizations and other stakeholders in the run-up to its review. But the U.S. will risk undermining these efforts if it fails to fulfill its own human rights commitments.

### A2 Kant FW

#### ommmited

## A2 Hobbes NC

### 1AR K – Hobbes

ommmited

### 1AR – Hobbes NC

ommited

## A2 Virtue NC

### 1AR – Virtue NC

ommitted

TURN – campus cops violate every virtue ethic in the book – here’s a list.

McCartney et al 15 Steven McCartney. Rick Parent. “Ethics in Law Enforcement” 2015. https://opentextbc.ca/ethicsinlawenforcement/chapter/2-4-virtue-ethics/ SA-IB

The virtues listed above are attractive to law enforcement agencies, and people who demonstrate these virtues are those who law enforcement agencies and all other branches of public service want. Vichio suggests a list of core virtues that law enforcement personnel should possess (Fitch, 2014). They include: Prudence. Officers with the ability to decide the correct action to take when rules and policy are not present. Trust. Officers with the ability to be relied upon for truth. This must exist between officers and civilians, officers themselves, and officers and the courts. Effacement of self-interests. Officers who do not abuse their position of authority or gain favouritisms due to their position. Courage. Officers who place themselves in danger intellectually and physically. Officers who are not afraid of testifying in court and/or making arrests in tense and intimidating settings. Intellectual honesty. Officers who act while weighing what they learned in training and whose actions reflect their training and their academic abilities. Justice. Officers who treat everyone fairly, regardless of personal biases, and who act toward individuals as if looking through a veil of neutrality. Responsibility. Officers who understand what is right and that there are other courses of actions, but have the intent to do right. Officers who can be counted upon to keep oaths, and to be accountable. The Center for American and International Law identifies what they term the Six Pillars of Character. They created these pillars with the assistance of 30 national leaders and ethicists. The six pillars that they identified as being the most important characteristics of an ethical police officer are: Trustworthiness. Includes integrity, promise-keeping, and loyalty. Respect. Treating everyone with respect, regardless of any biases or provocations. Responsibility. Includes accountability, pursuit of excellence, and self-restraint. Justice and fairness. Includes equity and demonstrating due process. Caring. Showing concern for others. Showing consideration for decisions that affect others. Civic virtue and citizenship. Being socially conscious. Demonstrating concern for one’s community.

# Frontlines – K

## A2 General K

### Perm

ommitted

### Case-Cross Apps

ommited

## A2 Black Nihilism K

### 1AR – Black Nihilism

ommitted

### A2 Greenhill K

ommitted

### A2 Burn It Down

ommitted

### Analysis

ommitted

but which, for the same reason, must be thought differently for blackness to live.

## A2 Wynter K

### 1AR – Wynter

ommitted

### A2 Alt

ommitted

## A2 Deleuze K

### 1AR – Deleuze

#### 1. Cross-apply Airaksinen – cops can target deviance on campus – plan is key.

#### 2. No link – nowhere does the 1AC say that static identity exists.

#### 3. Judge choice – if only some of the 1AC scholarship was bad, just don’t vote aff on that – if the plan is a good idea under the alt, then still vote aff.

#### 4. The oppressed don’t give a shit whether we call them assemblages or people, they just want cops to stop shooting them

#### 5. Their argument is about mindset – always be suspect of their alt solvency because it can’t convince everyone to start being inclusive

#### 6. Assemblage theory allows us to ignore material violence against real people because we don’t consider them as individuals that have specific problems

#### Perm – the assemblages that make up public colleges and universities ought to do the plan

#### Perm do the aff and the alt in all other instances – either the alt overcomes the links or it can’t solve

#### Perm do both – no co-option because we do the alt as well

## A2 Counterfactual K

### 1AR – Counterfactual K

ommitted

## A2 Constitution K

### 1AR – Constitution K

ommitted

## A2 Neolib K

### 1AR – Neolib

ommitted

## A2 Baudrillard K (Simulation)

### 1AR – Hyper reality

ommitted

## A2 Baudrillard K (Catastrophe)

### 1AR – Catastrophe

ommitted

# Frontlines – CP

## A2 Generic PICs

### Perm Overview

#### The PIC is a reasonable TPM –it’s not competitive. **Lukianoff 14**

(Lukianoff, Greg. Unlearning Liberty: Campus Censorship and the End of American Debate)

Of course, some kinds of speech are unprotected even under our First Amendment, including child pornography, obscenity (meaning hard-core pornography, not simple swear words), and libel. However, the Supreme Court takes special pains to limit these restrictions to a handful of narrow categories in order to protect as much speech as possible and is hesitant to create new exceptions. Also, **state officials**, including administrators at public colleges, **have the power to place reasonable “time, place, and manner” guidelines on some speech as long as it is done in a “content neutral” way**. So **a college is within its rights to stop a protest that is substantially disrupting the university**. For example, **nothing prevents colleges from stopping student takeovers of administrative buildings, from kicking a disruptive student out of class, or from punishing students for trying to disrupt a speech.** (Throughout this book, you will see administrators exploit even that humble power beyond recognition.)(19)

### Case Cross-Apps

### Precedent Theory

#### A] Interpretation: Debaters reading arguments about constitutional precedent as basis for competition must allow contestation of the basis behind that precedent as answers to that competition.

#### B] Violation: If I prove \_\_\_ *shouldn’t* be protected under the constitution, the PIC still competes because the Court has currently ruled \_\_\_ is protected.

#### C] Standards:

#### 1] Reciprocity and Ground – their competition model is the “is-ought” fallacy – they get to argue for one form of constitutional precedent, I should be able to argue why the perm would be consistent with the constitution in theory. \_\_\_’s constitutionality is in dispute, but they have the recency ground – I need to be able to contest why the constitution doesn’t mean that \_\_\_ is protected. Their interp kills perm ground on this topic because there are infinite PICs and I need to be able to make arguments.

#### 2] Real World Education – instead of just listening to authorities, we can actually make our own arguments and readings of the founding documents which encourages critical investigation on what kind of laws the U.S. should pass. Key to education-ensures we fully learn and understand the constitution.

### Time Suck theory

ommitted

## A2 Revenge Porn CP

### A2 Revenge Porn

#### Its not competitive – permutation do both.

Danielle Citron 14 [writer at Forbes, specializes in privacy and civil rights] “Debunking the First Amendment Myths Surrounding Revenge Porn Laws” April 18, 2014. https://www.forbes.com/sites/daniellecitron/2014/04/18/debunking-the-first-amendment-myths-surrounding-revenge-porn-laws/#6d37920425c8 SA-IB

Disclosing someone’s nude image in violation of trust and confidence (often known as nonconsensual pornography or revenge porn) is a destructive invasion of privacy that can cause irreversible harm to a person’s physical and emotional well-being, professional reputation, and financial security. Lawmakers are rightfully paying attention. Seven states have criminalized the practice; 18 states have pending bills; Representative Jackie Speier has expressed interest in making it a federal crime. Some object to criminalizing invasions of sexual privacy because free speech will be chilled. That’s why it is crucial to craft narrow statutes that only punish individuals who knowingly and maliciously invade another’s privacy and trust. Other features of anti-revenge porn laws can ensure that defendants have clear notice about what constitutes criminal activity and exclude innocent behavior and images related to matters of public interest. Even so, some argue that revenge porn laws are doomed to fail because nonconsensual pornography does not fall within a category of unprotected speech. To criminalize revenge porn, they say, the Court would have to recognize it as new category of unprotected speech, which it would not do. Another argument is that even if law could secure civil remedies for revenge porn, it could not impose criminal penalties because the First Amendment treats criminal and civil laws differently. These objections are unfounded and deserve serious attention lest they be taken seriously. Myth #1 Let’s first address the argument that revenge porn laws are unconstitutional because they do not involve categorically unprotected speech like true threats. Advocates rely United States v. Stevens, which struck down a statute punishing depictions of animal cruelty distributed for commercial gain. In Stevens, the Court rejected the government’s argument that depictions of animal cruelty amounted to a new category of unprotected speech. As the Court explained, the First Amendment does not permit the government to prohibit speech just because it lacks value or because the “ad hoc calculus of costs and benefits tilts in a statute’s favor.” The Court explained that it lacks “freewheeling authority to declare new categories of speech outside the scope of the First Amendment.” The Court did not say that only speech falling within explicitly recognized categories (such as defamation, true threats, obscenity, imminent incitement of violence, and crime-facilitating speech) are proscribable. To the contrary, the Court specifically recognized that other forms of speech have “enjoyed less rigorous protection as a historical matter, even though they have not been recognized as such explicitly.” Disclosing private communications about purely private matters is just the sort of speech referred to in Stevens that has enjoyed less rigorous protection as a historical matter. We do not need a new category of unprotected speech to square anti-revenge porn criminal laws with the First Amendment. Now for the cases establishing that precedent. Smith v. Daily Mail, decided in 1979, addressed the constitutionality of a newspaper’s criminal conviction for publishing the name of a juvenile accused of murder. The Court laid down the now well-established rule that “if a newspaper lawfully obtains truthful information about a matter of public significance then state officials may not constitutionally punish the publication of the information, absent a need to further a state interest of the highest order.” Ever since the Court has refused to adopt a bright-line rule precluding civil or criminal liability for truthful publications “invading ‘an area of privacy’ defined by the State.” Rather the Court has issued narrow decisions that specifically acknowledge that press freedom and privacy rights are both “plainly rooted in the traditions and significant concerns of the society.’” Consider Bartnicki v. Vopper. There, an unidentified person intercepted and recorded a cell phone call between the president of a local teacher’s union and the union’s chief negotiator. During the call, one of the parties talked about “go[ing] to the homes” of school board members to “blow off their front porches.” A radio commentator, who received a copy of the intercepted call in his mailbox, broadcast the tape. The radio personality incurred civil penalties for publishing the cell phone conversation in violation of the Wiretap Act. The Court characterized the wiretapping penalty as presenting a “conflict between interests of the highest order—on the one hand, the interest in the full and free dissemination of information concerning public issues, and, on the other hand, the interest in individual privacy and, more specifically, in fostering private speech.” For the Court, free speech interests appeared on both sides of the calculus. The Court recognized that “the disclosure of the contents of a private conversation can be an even greater intrusion on privacy than the interception itself.” The penalties were struck down because the private cell phone conversation about the union negotiations “unquestionably” involved a “matter of public concern.” Because the private call did not involve “trade secrets or domestic gossip or other information of purely private concern,” the privacy concerns vindicated by the Wiretap Act had to “give way” to “the interest in publishing matters of public importance.” The state interest in protecting the privacy of communications is strong enough to justify regulation if the communications involve “purely private” matters, like nude images. Neil Richards has persuasively argued, and lower courts have ruled, a lower level of First Amendment scrutiny applies to the nonconsensual publication of “domestic gossip or other information of purely private concern.” Appellate courts have affirmed the constitutionality of civil penalties under the wiretapping statute for the unwanted disclosures of private communications involving “purely private matters.” Along similar lines, lower courts have upheld claims for public disclosure of private fact in cases involving the nonconsensual publication of sex videos. In Michaels v. Internet Entertainment Group, Inc., an adult entertainment company obtained a copy of a sex video made by a celebrity couple, Bret Michaels and Pamela Anderson Lee. The court enjoined the publication of the sex tape because the public had no legitimate interest in graphic depictions of the “most intimate aspects of” a celebrity couple’s relationship. As the court explained, a video recording of two individuals engaged in sexual relations “represents the deepest possible intrusion into private affairs.” These decisions support the constitutionality of efforts to criminalize revenge porn. Nude photos and sex tapes are among the most private and intimate facts; the public has no legitimate interest in seeing someone’s nude images without that person’s consent. A prurient interest in viewing someone’s private sexual activity does not change the nature of the public’s interest. On the other hand, the nonconsensual disclosure of a person’s nude images would assuredly chill private expression. Without any expectation of privacy, victims would not share their naked images. With an expectation of privacy, victims would be more inclined to engage in communications of a sexual nature. Such sharing may enhance intimacy among couples and the willingness to be forthright in other aspects of relationships. The fear of public disclosure of private intimate communications would have a “chilling effect on private speech.”

#### Their competition claims are BULLSHIT –

#### 1. its based on an Arizona law that was so broad that the people reporting revenge porn could be convicted under it – courts have ruled THAT LAW would be bad, but not restrictions on revenge porn

#### 2. the fact a restriction could chill other speech doesn’t mean that revenge porn itself can’t be restricted

#### Permutation do the aff and have governments make revenge porn a federal crime – the aff says colleges ought not restrict with cops, not governments. It’s a legit perm – a) the revenge porn disad isn’t intrinsic to the aff because other things could solve it, they’ve just arbitrarily avoided real opportunity-costs b) the perm is an example of the implementation of the cp

## A2 Hate Speech CP

### A2 Hate Speech

#### Cross-apply Fire 17 – police cast a wide definition of bias – they are specifically bad at combatting hate speech – prefer specificity.

#### Cross-apply Airaksinen – white students can report black protests and resistance against trump as a form of bias or speech that makes them feel unsafe.

### A2 Greenhill Insults PIC

#### A2 Byrne

#### 1 – doesn’t solve the aff because the aff doesn’t say discourse is great, just that speech codes are bad

#### A2 Delgado – Impacts

#### 1 – actual harassment codes that don’t restrict speech solve for the forms of racial insults that cause these harms.

#### 2 – alt causes exist to all the impacts so don’t let them claim some large impact in the 2N.

#### A2 Delgado – Solvency

#### 1 – you highlighted the warrant out of this card, it literally has a sentence that’s highlighted that just asserts legal action is good. All the rest of the card is just impact extrapolation.

#### 2 – this deterrence argument is hypothetical – Strossen is empirical and so is all of the free speech martyr stuff, so you err aff.

## A2 Title IX PIC

### 1AR – Title IX PIC

#### 1 – they misunderstand title IX, which requires colleges to investigate instances of harassment and not dismiss which is not mutually exclusive with removing speech codes, which is the plan – permutation do both solves back.

#### 2 – double bind – either the CP is strong enough that it’s not competitive or its too vague and links to the advantage. Hudson 02:

David L, expert in First Amendment issues who writes for firstamendmentcenter.org and for other publications. Hudson teaches law and was a scholar at the First Amendment Center. He is the author or co-author of more than 30 books, including several on the U.S. Supreme Court, the Constitution and student rights. He is a First Amendment contributing editor for the American Bar Association’s Preview of United States Supreme Court Cases. “FREE SPEECH ON PUBLIC COLLEGE CAMPUSES Sexual harassment” September 13, 2002. http://www.firstamendmentcenter.org/sexual-harassment SA-IB

Universities must combat sexual harassment, a pervasive problem in society. Polls have indicated that an alarmingly high number of female students have been subjected to some form of harassment during their college years. But universities also represent unique marketplaces of ideas where the thought of silencing educators’ in-class expression sounds downright repressive. After all, the First Amendment should provide for robust discussion in a university classroom setting. First Amendment advocates assert that many university professors chill their own speech in order to avoid saying anything that might offend students. This, the advocates warn, could lead to a sterile learning environment. Public universities have a legal responsibility to prohibit sexual discrimination in education. A federal law known as Title IX requires such action. 1 Title IX provides that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Under Title IX, Congress can withhold federal funds to universities that allow sexual discrimination in the university setting. This duty to prevent sexual discrimination extends to so-called “hostile environment” harassment. The U.S. Department of Education defines hostile environment discrimination as follows: Hostile environment harassment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student’s ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational environment. — Office of Civil Rights, “Questions and Answers about Sexual Harassment” Harassment law prohibits severe and pervasive harassment that alters the conditions of the workplace or classroom. Professors who create a hostile learning environment can be subject to discipline under a university sexual harassment policy. But, applying a sexual harassment policy to a professor’s in-class speech raises substantial First Amendment concerns. If the teacher’s speech is not directed at a particular student for sexual favors, the First Amendment concerns loom larger. “If the speech is not repetitive, severe and persistent, then generally it should receive protection,” says University of Pennsylvania history professor Alan Charles Kors. Kors’ colleague at the Foundation for Individual Rights in Education, attorney Harvey A. Silverglate, wrote in a 1999 memorandum: “Title VII workplace law and Title IX education law cannot be interpreted so as to allow, much less require an institution of higher learning to curtail speech anywhere on campus, especially in the classroom which is the cauldron of the educational process. Such laws may be applied to genuine harassment, but not to speech cleverly classified as acts of harassment. If these statutes and regulations were in fact interpreted to apply to pure speech, they would thereby be rendered unconstitutional.” Despite arguments that punishing professors for in-class speech violates the First Amendment, several university professors have faced discipline for violating sexual harassment regulations based on their in-class speech. Many of these cases began in the early 1990s, although it took several years before a federal court ruled in the matters. A few examples follow: Silva v. University of New Hampshire In 1992, several students at the University of New Hampshire accused tenured faculty member and writing instructor Donald Silva of sexual harassment in part because of his comments in class. These allegedly included: “Focus is like sex. You seek a target. You zero in on your subject. You move from side to side. You close in on the subject. You bracket the subject and center on it. Focus connects experience and language. You and the subject become one.” “Belly dancing is like jello on a plate with a vibrator under the plate.” Eight students filed written complaints with the university. The school created another section of the class and 26 students transferred from Silva’s class to the other instructor. University officials reprimanded Silva for violating the school’s sexual harassment policy. He filed a grievance that was denied. The university suspended him without pay. At a formal hearing, a panel found that Silva’s comments “contributed to a hostile academic environment.” The university placed Silva on leave without pay for one year and required him to receive counseling before teaching again. After losing his appeals in the university system Silva sued in federal court, contending that his First Amendment rights were violated. A federal district court sided with Silva. The court focused on the fact that some of Silva’s statements, such as the vibrator statement, were not necessarily sexual. The court also emphasized that the university’s sexual-harassment policy did not prohibit nonsexual verbal conduct. “The court finds that Silva’s classroom statements advanced his valid educational objective of conveying certain principles related to the subject matter of his course,” the court wrote. “The record demonstrates that Silva’s classroom statements were made in a professionally appropriate manner as part of a college class lecture.” The court concluded that the university’s sexual harassment policy “as applied to Silva’s classroom speech is not reasonably related to the legitimate pedagogical purpose of providing a congenial academic environment because it employs an impermissibly subjective standard that fails to take into account the nation’s interest in academic freedom.” Legal commentator Lisa Woodward wrote that “the court’s great deference to academic freedom effectively negated the mandates of Title IX.” However, Kors, president of FIRE, disputes this characterization, calling the prosecution of Silva “beyond belief.” Cohen v. San Bernardino Valley College Dean Cohen taught a remedial English class at San Bernardino Valley College. He used a self-described “confrontational teaching style designed to shock his students and make them think and write about confrontational subjects.” In 1992, he read articles to his class that he had published in Hustler and Playboy magazines. He led classroom discussions on topics such as obscenity, cannibalism and consensual sex with children. After a student complained, the university determined that Cohen had violated the school’s sexual harassment policy. The board of trustees ordered Cohen to warn students ahead of time of his “confrontational style,” attend a sexual harassment seminar, and be cognizant of how his teaching style might affect his students. Cohen sued the school, claiming a violation of his First Amendment rights. A federal district court rejected Cohen’s arguments, finding the sexual harassment policy constitutional. On appeal, the 9th U.S. Circuit Court of Appeals reversed, finding that the policy was “simply too vague as applied to Cohen in this case.” The court reasoned: “Cohen’s speech did not fall within the core region of sexual harassment as defined by the Policy. Instead, officials of the College, on an entirely ad hoc basis, applied the Policy’s nebulous outer reaches to punish teaching methods that Cohen had used for many years.”

#### 3 – permutation do the counterplan, it’s justified because they stole a large portion of the 1AC, so I get to reciprocally steal back some of the 1NC. No moving target arguments for severance because I only shift to what you read in the 1NC, so it’s predictable.

### A2 Funding Impact

#### 1 – federal funding high now. Pew 15:

Pew [Polling and information organization] “Federal and State Funding of Higher Education.” July 2015.

**The federal government is the nation’s largest student lender; it issued $103 billion in loans in 2013.** States, by contrast, provided only $840 million in loans that year, less than 1 percent of the federal amount. Although they must be paid back with interest, federal loans allow students to borrow at lower rates than are available in the private market. **Federal loans grew 376 percent between 1990 and 2013 in real terms**, compared with enrollment growth of 60 percent. These figures represent the volume, rather than the cost, of those loans. The federal government also supports higher education through the tax code. In 2013, it provided $31 billion in tax credits, deductions, exemptions, and exclusions to  offset costs, essentially equal to the $31 billion it spent for Pell Grants. Because these expenditures allow taxpayers to reduce their income taxes, they reduce federal revenue and are similar to direct government spending. **The value of federal tax expenditures for higher education is $29 billion larger than it was in 1990 in real terms**.  Much of the growth coincided with the creation of the American Opportunity Tax Credit (formerly Hope Tax Credit) in 1997 (effective 1998) and its expansion and renaming in 2009. Between 1990 and 2013, the number of FTE students grew by 60 percent.

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Thomas, Katie [Contributor, The New York Times] “Review Shows Title IX Is Not Significantly Enforced.” The New York Times. July 2011.

In 1998, the University of Southern California was accused of denying its female students a fair chance at participating in sports. **Thirteen years later**, the federal agency charged with investigating sex discrimination in schools has not completed its inquiry of U.S.C. In 2008, the same federal agency, the Office for Civil Rights, came across evidence that Ball State University in Indiana was losing a disproportionate number of women’s coaches. But the agency opted to let Ball State investigate itself. After a two-week inquiry, during which Ball State failed to interview a single coach, the university concluded that there was no evidence that any of the coaches had been unfairly treated or let go. The federal law known as **Title IX** — requiring schools at all levels across the country **to** offer girls and women equal access to athletics — has produced a wealth of progress since it was enacted almost four decades ago. Almost no one disputes that. But scores of **schools**, **year in and year out**, **still fail to abide by the law.** For those schools, **almost no one disputes this**: **There is little chance their shortcomings will ever be investigated**, **and** even if they are, **few will be meaningfully punished.** According to a review by The New York Times, the Office for Civil Rights allows cases of suspected discrimination to drag on for years, long after the affected athletes have graduated. The office — whose staff of 600 full-time employees at its Washington headquarters and 12 regional offices must juggle a variety of cases, including those for disability, age and race discrimination — routinely asks schools to investigate themselves and to develop their own plans for fixing problems. Not surprisingly, the process can lead to further delays and little change.

#### 2 – counterspeech solves back, that’s Calleros 95 – the community can engage in protest or lectures or workshops, which is better than title IX.

#### 3 – cross-apply Strossen, you force survivors to go the institution for help, when the institution most likely doesn’t care.

## A2 Wisconsin

### Perm

#### The code that was declared unconstitutional is NOT the policies that worked – the ones that work are green lighted by FIRE and don’t violate const. speech, which means perm do both. FIRE 17:

https://www.thefire.org/schools/university-of-wisconsin-madison/. “University of Wisconsin” SA-IB. 2017.

Green Light Policies. Prohibited Harassment: Definitions and Rules Governing the Conduct of UW-Madison Faculty and Academic Staff Speech Code Category: Harassment Policies Last updated: June 1, 2016 A member of the university faculty or academic staff is subject to discipline if, in a work or learning-related setting, he or she makes sexual advances, requests sexual favors, or makes physical contacts commonly understood to be of a sexual nature, and if 1.the conduct is unwanted by the person(s) to whom it is directed, and 2.the actor knew or a reasonable person could clearly have understood that the conduct was unwanted, and 3.because of its flagrant or repetitious nature, the conduct either 1.seriously interferes with work or learning performance of the person(s) to whom the conduct was directed, or 2.makes the university work, learning, or service environment intimidating or hostile, or demeaning to a person of average sensibilities. » Read More Dean of Students Office: Bias Reporting Process Speech Code Category: Policies on Bias and Hate Speech Last updated: October 5, 2016 Definition of bias and hate: Single or multiple acts toward an individual, group, or their property that are so severe, pervasive, and objectively offensive that they create an unreasonably intimidating, hostile, or offensive work, learning, or program environment, and that one could reasonably conclude are based upon actual or perceived age, race, color, creed, religion, gender identity or expression, ethnicity, national origin, disability, veteran status, sexual orientation, political affiliation, marital status, spirituality, cultural, socio-economic status, or any combination of these or other related factors. Bias and hate incidents include, but are not limited to the following, when they rise to the level of the standard set forth above: slurs, degrading language, epithets, graffiti, vandalism, intimidation, symbols, and harassment that are directed toward or affect the targeted individual or team. Incidents of bias and hate contribute to a hostile campus environment and can occur even if the act itself is unintentional or delivered as a joke, prank, or having humorous intent. The above definition is used for reporting and statistical purpose only. It carries no independent sanctioning weight or authority. Although the expression of an idea or point of view may be offensive or inflammatory to some, it is not necessarily a violation of law or university policy. The university values and embraces the ideals of freedom of inquiry, freedom of thought, and freedom of expression, all of which must be vitally sustained in a community of scholars. While these freedoms protect controversial ideas and differing views, and sometimes even offensive and hurtful words, they do not protect acts of misconduct that violate criminal law or university policy. » Read More Prohibited Harassment: Definitions and Rules Governing the Conduct of UW-Madison Faculty and Academic Staff Speech Code Category: Advertised Commitments to Free Expression Last updated: June 1, 2016 The University of Wisconsin-Madison endeavors to maintain an environment that challenges students, faculty, and staff to develop their critical thinking capacities to their fullest potential-an environment in which controversial, provocative, and unpopular ideas can safely be introduced and discussed. The university is, therefore, unswervingly committed to freedom of speech as guaranteed under the First Amendment to the Constitution of the United States and to the principle of academic freedom adopted by the Board of Regents in 1894, which states in part: “whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone truth can be found.” » Read More Regent Policy Document 14-6: Discrimination, Harassment, and Retaliation Speech Code Category: Harassment Policies Last updated: June 1, 2016 Discriminatory Harassment is a form of discrimination consisting of unwelcome verbal, written, graphic or physical conduct that: Is directed at an individual or group of individuals on the basis of the individual or group of individuals’ actual or perceived protected status, or affiliation or association with person(s) within a protected status (as defined herein above); and is sufficiently severe or pervasive so as to interfere with an individual’s employment, education or academic environment or participation in institution programs or activities and creates a working, learning, program or activity environment that a reasonable person would find intimidating, offensive or hostile To constitute prohibited harassment, the conduct must be both objectively and subjectively harassing in nature. Harassment may include but is not limited to verbal or physical attacks, threats, slurs or derogatory or offensive comments that meet the definition set forth herein. Harassment does not have to be targeted at a particular individual in order to create a harassing environment, nor must the conduct result in a tangible injury to be considered a violation of this policy. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved. » Read More Office for Equity and Diversity: Sexual Harassment Information- Hostile Environment Sexual Harassment Speech Code Category: Harassment Policies Last updated: June 1, 2016 Hostile environment sexual harassment occurs when verbal, non-verbal and/or physical conduct is: sexual and/or based on gender, unwelcome, and sufficiently severe and pervasive to interfere with a person’s work/learning/program performance or to create a hostile, intimidating or offensive environment.

# Frontlines – DA

## A2 I-Law DA

### 1AR – I-law DA

#### We just elected Trump – he’s bringing back Korematsu for Muslims and Mexicans – our human rights cred is trash.

#### Non-unique – hate speech is already going to happen, its just a question of whether the other side engages and whether we can criticize the government.

#### Our shitty domestic surveillance record, police brutality, private prisons, and the death penalty are crushing our cred. Sanchez-Moreno 15:

Maria, co-director of the U.S. program at Human Rights Watch. “Hold the US accountable on human rights” May 11, 2015. http://america.aljazeera.com/opinions/2015/5/holding-the-us-accountable-on-human-rights.html

The United States has its second universal periodic review (UPR) before the United Nations Human Rights Council in Geneva on Monday. Countries will be able to ask the U.S. questions and make recommendations about its implementation of human rights commitments made during its first review, which took place in 2010, as well as about other issues of concern. At the top of the list should be Washington’s failure to hold accountable those responsible for the systematic torture carried out by the Central Intelligence Agency in the global “war on terrorism.” Five years ago, the U.S. accepted a UPR recommendation from Denmark to “take measures to eradicate” and “thoroughly investigate” all forms of torture and abuse by military or civilian personnel within its jurisdiction. But the only investigation into CIA torture conducted by the U.S. Department of Justice was limited in scope and closed in 2012 with no charges filed. Nor does it seem to have met basic standards of credibility or thoroughness; investigators apparently never bothered to interview key witnesses of the abuse: the detainees. The U.S. has finally begun to tell the truth about what happened: the December 2014 release of a partially redacted summary of a detailed U.S. Senate Intelligence Committee report that describes, in harrowing detail, many of the acts of torture to which CIA officials subjected detainees. Yet the full 6,700-page report remains classified, and Barack Obama’s administration has expressed no interest in appointing a special prosecutor and opening new investigations. Countries that have succeeded in bringing to justice those responsible for atrocities should take the lead in pressing the U.S. to act. Indefinite detention at Guantánamo Bay remains another outstanding concern. The administration has reiterated its commitment to close the facility and has gradually transferred some detainees to other countries. But 122 men remain locked up in the detention center because of congressional restrictions on transfers and apparent foot dragging by the Department of Defense. These men have no clear prospect of release or a fair trial under military commissions, which are fundamentally flawed. Among other problems, they allow the use of evidence obtained by coercion, fail to protect attorney-client privilege and use rules that block the defense from obtaining information essential to the case, including about the CIA’s treatment of the detainees on trial while they were in its custody. Nearly two years since Snowden’s first disclosures, neither the White House nor Congress has yet to impose meaningful limits on the NSA's mass surveillance programs. Serious and longstanding human rights problems also plague the U.S. criminal justice system, including poor prison conditions, disproportionately harsh sentencing, the death penalty and abusive police practices. As the protests in many U.S. cities over the deaths of African-Americans Michael Brown, Eric Garner, Walter Scott, Freddie Gray and others show, there is strong and understandable public concern over police brutality and racial discrimination in the U.S. criminal justice system. Other governments should press the U.S. to clean up these blots on its record. Countries should also call the U.S. out on abuses in its immigration system, notably its recent decision to detain immigrant families with children who are apprehended crossing the border. The administration admits the detentions are aimed at deterring other migrants, many of whom are fleeing persecution at home. But international law bars all detention of children for immigration purposes, which is profoundly harmful to their development. The large-scale U.S. surveillance programs revealed by National Security Agency whistleblower Edward Snowden raise further concerns. Nearly two years since his first disclosures, neither the White House nor Congress has yet to impose meaningful limits on these programs, which affect potentially millions of people inside and outside the U.S. Even a very modest bill to impose some constraints on domestic surveillance, the USA Freedom Act, faces strong opposition from legislators who support the programs. In this context, it is ever more critical that concerned governments join others, like those of Brazil and Germany, that have been pressing the U.S. to reform. The U.S. has put a lot of effort into strengthening the U.N. Human Rights Council and making the UPR a useful process when it comes to dealing with other countries. It has also made a point of setting a good example, by engaging in extensive consultation with nongovernmental organizations and other stakeholders in the run-up to its review. But the U.S. will risk undermining these efforts if it fails to fulfill its own human rights commitments.

## A2 Title IX DA

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[0:31]

#### 1 – title IX requires colleges investigate sexual assault, which means that removing speech codes doesn’t link.

#### 2 – trump non-uniques the disad. New 16

Jake New, November 10th, 2016. Jake studied journalism at Indiana University, where he was editor-in-chief of the Indiana Daily Student. “Campus Sexual Assault in a Trump Era”. https://www.insidehighered.com/news/2016/11/10/trump-and-gop-likely-try-scale-back-title-ix-enforcement-sexual-assault.

With Donald Trump winning the presidential election on Tuesday -- and with Republicans maintaining control of both the Senate and House of Representatives -- victims and their advocates worry that the White House’s five-year push to combat campus sexual assault may end with President Obama’s tenure. Through detailed guidance documents and investigations at more than 200 institutions, the Obama administration made preventing campus sexual assault a signature issue of its Education Department. The administration's updated interpretation of the federal gender discrimination law Title IX of the Education Amendments of 1972 allowed the White House to sharply increase the enforcement efforts of the Department of Education’s Office for Civil Rights. The intensified focus on campus sexual assault and Title IX prompted an outpouring of complaints and lawsuits against colleges and universities over claims they mishandled reports of sexual violence. Trump, who faces allegations of sexual assault and criticism over his treatment of women, has said little about how he would approach sexual violence on college campuses. While his Democratic opponent, Hillary Clinton, reached out to several victims' organizations during the election, Trump contacted none. His lack of a plan has worried many victims’ advocates, and comments made during the campaign by some of Trump’s surrogates suggesting that, if elected, Trump would scale back Title IX, or even eliminate the Department of Education or the Office of Civil Rights, has caused more concern. Other Transition-Related Coverage How Obama-Trump Transition Could Affect Higher Ed 'This Election Is Catastrophic' Loss of International Students? Outraged by Trump Win, Students Protest At the same time, advocates for students accused of sexual assault are hopeful the new status quo could bolster their attempts to require more due process protections for those students. In an interview with Inside Higher Ed in May, Sam Clovis, the national co-chair and policy director of Trump's campaign, suggested moving the Office for Civil Rights to the Justice Department's civil rights division. At a meeting with urban school superintendents last month, Trump’s New York state co-chairman, Carl Paladino, characterized the Office for Civil Rights as unnecessary, calling it “self-perpetuating, absolute nonsense,” and saying all campus discrimination cases should be handled by U.S. attorneys. “That would be disastrous for survivors and devastating for anyone who cares about their children being able to go to school without fear of violence or harassment or intimidation,” said Dana Bolger, co-founder of Know Your Title IX, a victims’ advocacy group. “The opportunity to learn is a fundamental American value, central to the American dream. We've got to keep supporting OCR if we want that dream to survive for the next generation.” Eliminating the Office for Civil Rights would not be easy, as it was formed through the Department of Education Organization Act in 1979, the same federal law that created the Education Department. While OCR’s handling of Title IX has its share of critics in the House of Representatives and Senate, there has been little indication of either chamber broadly supporting the complete abolition of OCR, even with a Republican majority and president. But if the office remains intact, there’s little chance its level of funding will remain or increase. Many experts on Title IX have predicted that a Trump administration would cut OCR’s budget, effectively limiting the number of investigations it could conduct at a time when the office already struggles to keep pace with the number of cases it has opened. As of last year, it took OCR, on average, 940 days to complete a sexual assault investigation. Currently, the Office for Civil Rights still has 216 open investigations. Ann Franke, a higher education consultant and former campus Title IX official, said she doubts a Trump Education Department would maintain the public list, started by the Obama administration in 2014, of colleges that are under investigation. The investigations that remain open when Trump becomes president will also likely be judged by a different set of standards and rules than cases that were settled during the Obama administration, she said. “I would expect between now and Jan. 20, [the Obama administration's] OCR is going to be working to reach a lot of resolution agreements with a lot of institutions under investigation,” Franke said. “And I suspect institutions will have new leverage in negotiating resolutions over the next couple of months.” In 2011, the Department of Education’s Office for Civil Rights issued a Dear Colleague letter that urged institutions to better investigate and adjudicate cases of campus sexual assault. The letter clarified how the department interprets Title IX, and for the past five years it has been the guiding document for colleges hoping to avoid a federal civil rights investigation into how they handle complaints of sexual violence. Republican lawmakers have argued that the guidance goes farther than just clarifying Title IX. They say the department has illegally expanded the gender discrimination law’s scope -- increasing the liability for institutions dealing with bullying, harassment and sexual violence and relaxing the burden of proof institutions are required to use when adjudicating cases of sexual assault -- without going through proper notice-and-comment procedures. The department maintains the guidance did not create any new laws or policies, however, and serves only to fill in some of the vaguer parts of Title IX in order to help colleges not run afoul of the law.

#### 3 – aff is best middle ground – harassment policy that links to the aff is overturned, but good harassment policy is kept, which means no link and link turn. Hudson 02:

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#### 1 – title IX is inefficient and not enforced. Thomas 11:

Thomas, Katie [Contributor, The New York Times] “Review Shows Title IX Is Not Significantly Enforced.” The New York Times. July 2011.

In 1998, the University of Southern California was accused of denying its female students a fair chance at participating in sports. **Thirteen years later**, the federal agency charged with investigating sex discrimination in schools has not completed its inquiry of U.S.C. In 2008, the same federal agency, the Office for Civil Rights, came across evidence that Ball State University in Indiana was losing a disproportionate number of women’s coaches. But the agency opted to let Ball State investigate itself. After a two-week inquiry, during which Ball State failed to interview a single coach, the university concluded that there was no evidence that any of the coaches had been unfairly treated or let go. The federal law known as **Title IX** — requiring schools at all levels across the country **to** offer girls and women equal access to athletics — has produced a wealth of progress since it was enacted almost four decades ago. Almost no one disputes that. But scores of **schools**, **year in and year out**, **still fail to abide by the law.** For those schools, **almost no one disputes this**: **There is little chance their shortcomings will ever be investigated**, **and** even if they are, **few will be meaningfully punished.** According to a review by The New York Times, the Office for Civil Rights allows cases of suspected discrimination to drag on for years, long after the affected athletes have graduated. The office — whose staff of 600 full-time employees at its Washington headquarters and 12 regional offices must juggle a variety of cases, including those for disability, age and race discrimination — routinely asks schools to investigate themselves and to develop their own plans for fixing problems. Not surprisingly, the process can lead to further delays and little change.

#### 2 – counterspeech solves back, that’s Calleros 95 – the community can engage in protest or lectures or workshops, which is better than title IX.

#### 3 – cross-apply Strossen, you force survivors to go the institution for help, when the institution most likely doesn’t care.

## A2 Hate Speech DA

### 1AR – Hate Speech DA

#### NON-UNIQUE AF – we just elected trump and the alt-right doing vocal warm ups – aint no regulations gonna stop the shitstorm that’s coming. Kamp 16:

Karin, multimedia journalist and producer. She has produced content for BillMoyers.com, NOW on PBS and WNYC public radio and worked as a reporter for Swiss Radio International. She also helped launch The Story Exchange, a site dedicated to women's entrepreneurship. “Donald Trump and the Escalation of Hate” June 15, 2016. http://billmoyers.com/story/donald-trump-escalation-hate/ SA-IB

While white supremacists have long been active in America, Republican presidential candidate Donald Trump’s statements against various racial groups seem to be further stoking their fires. “Hate speech and the organizing of white supremacists behind this [Trump] campaign has been astounding,” said Heidi Beirich, the Southern Poverty Law Center’s (SPLC) Intelligence Project Director. “That organizing has led to more hate speech on the web.” Throughout the primary season, Trump has built his brand on divisive language, and his reaction to the June 13 massacre at an Orlando, Florida, nightclub is no exception. On Monday, Trump suggested that all Muslim immigrants posed threats to American security, and reiterated his call for a ban on them. Trump’s position “stokes fear and hatred of Muslims and immigrants at a time when political leaders should be bringing Americans together,” Madihha Ahussain, a lawyer at Muslim Advocates, told BillMoyers.com. “Hateful rhetoric has real, and often violent, consequences for American Muslims, many of whom are also part of the Latino and LGBTQ communities,” she said, adding that there has been an “alarming uptick in crimes” against Muslims or those mistaken to be Muslim. In the four months following the Paris terrorism attacks – the most recent data available – Muslim Advocates, which tracks hate crimes against the community, found 80 incidents of threats, violence and acts of vandalism targeting Muslims. In some of these incidents, the perpetrators invoked Trump. In March, two men were allegedly attacked in Kansas — one Muslim, the other Mexican — by a man who reportedly punched them and said “Trump will take our country from you guys!” Last August, one of two brothers accused of beating a homeless Hispanic man in Boston said he was motivated by Trump’s message on immigration, police said. Even schoolchildren are affected. A recent report from the Southern Poverty Law Center, The Trump Effect: The Impact of the Presidential Campaign on Our Nation’s Schools, found that immigrant and Muslim students in America are experiencing more bullying from their peers.

#### The case solves the impact and turns the disad – Strossen says that counterspeech fights hate speech, but censorship is worse and legitimizes hate speech. Double bind – a) there’s censorship now and I get this turn or b) there’s no censorship so the disad is non-unique.

## A2 Police DA

### A2 Terror DA

### A2 Safety DA